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A.—(a) The project was started in January 1930, and completed in March 1933.

(b) The total expenditure incurred up to the 1st April 1933 is Rs. 1,07,13,580. An additional outlay of about Rs. 1,57,000 is expected to be spent to complete the first year's programme as contemplated in the project report.

(c) Rs. 3,38,160.

(d) About Rs. 4 lakhs.

Mr. BASHEER AHMED SAYEED:—" May I ask at what rate the profit for this year works? "

The hon. Diwan Bahadur Sir M. KRISHNAN NAYAR:—" Notice."

Mr. BASHEER AHMED SAYEED:—" May I ask is that the rate contemplated under the sanctioned estimate? "

The hon. Diwan Bahadur Sir M. KRISHNAN NAYAR:—" Notice."

UNSTARRED QUESTION

Local Self-Government

Reamalgamation of Taluk Boards on the basis of one board for each Revenue Division.

301 Q.—Mr. M. B. RANGASWAMI REDDI: Will the hon. the Minister for Local Self-Government be pleased to state whether it is a fact that the Government are considering the question of reamalgamating taluk boards so that there might be one Taluk Board for each Revenue division?

A.—The answer is in the negative.

[Note.—An asterisk (*) at the commencement of a speech indicates revision by the Member.]

II.—A BILL FURTHER TO AMEND THE MADRAS ESTATES LAND ACT, 1908, FOR CERTAIN PURPOSES (BILL NO. 12 OF 1931).

* The hon. the PRESIDENT:—" The House will now resume consideration clause by clause of the Estates Land Act Amending Bill."

Rao Bahadur Sir A. P. PATRO:—" Sir, I beg leave to raise a point for the consideration of the House, i.e., with regard to what happened yesterday, Government agreeing to place the minutes of discussion in the Select Committee before this House. I need not recall to your mind, Sir, that it is the duty of the Opposition, as they very frankly stated yesterday that it was a dilatory motion that they were carrying on, to obstruct Government . . . "

* The hon. the PRESIDENT:—" Order, order. The hon. Member may state his point of order."

* Mr. SAMI VENKATACHALAM CHETTI:—" With your leave, Sir, I may ask that, apart from the point of order that the hon. Member

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might raise, was he quite right in representing that the Opposition ever stated that they were adopting any procedure, obstructive or dilatory? He is drawing on his own imagination."

* The hon. the PRESIDENT:—"I may inform the hon. Member that the Leader of the Opposition made it clear that the Opposition has a right to do that, and perhaps he was trying to do that. That is the impression that he has given to the House."

Rao Bahadur Sir A. P. PATRO:—"If my hon. Friend is nervous about my raising that aspect of the matter I would not enter into that, but leave to his own satisfaction what his views were yesterday and what his views are to-day. My point is this: The proceedings of the Select Committee are by convention and tradition confidential, it is the privilege of this House to maintain that secrecy, and it is not open to the Government or to the Opposition to have these minutes published. It may be, Sir . . ."

* The hon. the PRESIDENT:—"I think the hon. Member wants a ruling on the particular aspect, whether the confidential nature of the Select Committee proceedings will be maintained if they are ordered to be published. Is that the point of order?"

Rao Bahadur Sir A. P. PATRO:—"Yes, that is so, Sir. Just one word more. I would not enter into the whole thing as to how it happened yesterday that four or five members had congregated and wanted to make a representation to the Chair and none of us on this side of the House had any opportunity to make our representation."

* The hon. the PRESIDENT:—"Anyhow I may inform the hon. Member that it is not a point of order. If the hon. Member felt any difficulty about that he had ample opportunity yesterday to raise his objection then and there. When it has been agreed to by the whole House that the minutes of the proceedings of the Select Committee should be made available to the Members of the House, they have to be made so available. As regards the secrecy that has to be maintained regarding these proceedings, I may tell the hon. Member, and the House also, that as long as the House wants to maintain that secrecy it can do so, but if it wants to make a publication of it, it is also equally open to it to do so."

* MR. SAMI VENKATACHALAM CHETTI:—"May I, in this connexion, say that my hon. Friend, Sir Patro, has attempted to raise a point of order without basing the reasonableness of that point on any Standing Order. So far as the amendment in our Standing Orders is concerned, probably he is having in mind the old practice; even the practice in the House of Commons where the Select Committee proceedings are not to be published, has by a subsequent Standing Order, been so modified as to enable the House to call for the report of the Select Committee proceedings and get it published. As you, Sir, have already said, the course taken by the House is perfectly in consonance with that which is obtaining in the Mother of Parliaments."

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Rao Bahadur Sir A. P. PATRO:—" I am obliged to the hon. Member for the very intimate knowledge he has got on the matter. But, Sir, the analogy of the House of Commons does not hold good with regard to the procedure adopted in Indian Legislatures; . . . "

* The hon. the PRESIDENT:—" I think we have had enough discussion on the point. We will proceed with the Bill clause by clause."

Clause 1.

The hon. Sir ARCHIBALD CAMPBELL:—" Mr. President, Sir, I beg to move—

" in clause 1 for the words and figures " on the day of 193 , " the following words and figures be substituted: " on the first day of July 1934 " . "

" It is desirable that this amending Act should be brought into force at the beginning of a fasli year. It is an optimistic hope that, if this Bill is passed by the House, it will be passed in time to get the assent of His Excellency the Governor and His Excellency the Governor-General before 1st July 1934. Therefore I beg to move this amendment."

The hon. Diwan Bahadur Sir M. KRISHNAN NAYAR:—" I second it."

Mr. V. T. ARASU:—" Sir, I do not propose to move a regular amendment, but I should like to make one suggestion, namely, that this Act be brought into force on the 1st July 1935. The reason for the same is this: The hon. the Revenue Member has only taken into consideration that this Bill, if passed by this House will receive the sanction of His Excellency the Governor and His Excellency the Governor-General before 1st July 1934 and therefore hopes to enforce this Act from that day a certain date, but he seems to forget the fact that this Bill, if passed into an Act, has got to be understood by the people at large, about 4,000 to 5,000 landholders in this Presidency on the one hand and several millions of ryots on the other. Therefore it is but proper that Government should make the provisions of this measure understood by the people. To achieve that end Government will have to translate this Bill in the various vernacular languages and broadcast the same. All this would require time. With that view I suggest to the Government that this Act may be brought into force on the 1st July 1935."

* The hon. the PRESIDENT:—" Will the hon. Member think of correcting the first figure also in clause 1."

The hon. Sir ARCHIBALD CAMPBELL:—" I should like to do that at the third reading."

The amendment was put and carried.

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Clause 1-A.

The hon. Sir ARCHIBALD CAMPBELL:—"Mr. President, Sir, I beg to move—

'For clause 1-A, the following clause be substituted, namely:—

"1-A. In the Madras Estates Land Act, 1908 (hereinafter referred to as the said Act), for the words 'puttah,' 'puttahs,' 'muchalka' and 'muchalkas' wherever they occur, the words 'patta,' 'pattas,' 'muchilika' and 'muchilikas' shall respectively be substituted'."

"In the Select Committee, when considering the Act, we found that the spelling of these words varied and it seemed desirable to adopt a uniform spelling throughout the Act. The Select Committee altered the words in the singular only; they should also be altered in the plural. That is the reason for this amendment."

The hon. Diwan Bahadur Sir M. KRISHNAN NAYAR:—"I second it."

Mr. BASHEER AHMED SAYEED:—"I presume the hon. the Revenue Member knows that these words are Persian words and it is not pronounced as muchilika there nor is it pronounced as muchilka but it is pronounced as muchl-ika. So I ask the hon. the Revenue Member to correct the spelling according to that pronunciation."

The amendment was put and carried.

Clauses 1 and 1-A, as amended, and clause 1-B were put and carried.

* The hon. the PRESIDENT:—"Before I proceed to clause 2, I wish to inform the House that I do not propose to receive any further amendments to the Bill unless they be amendments agreed to by all sides of the House or consequential amendments. We have already got a very large number of them and, as the House knows, it is a bewildering number and I hope further confusion might not be created by giving notice of more amendments."

* The hon. Sir ARCHIBALD CAMPBELL:—"Consequential amendments may be taken up, I presume."

* The hon. the PRESIDENT:—"Yes. I said so."

Mr. BASHEER AHMED SAYEED:—"If we give three days' notice of amendments before they come up for discussion, will they not be in order?"

* The hon. the PRESIDENT:—"The hon. Member knows perfectly well that the three days' notice refers only to three days before the commencement of the consideration of the Bill. But that rule has already been relaxed on account of the view that has been expressed by certain members that there has not been enough time to give notice of amendments. I do not think it is possible to relax it further, so that it might be easy to avoid confusion hereafter."

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Clause 2.

Section 3 (1-A).

Sriman M. G. PATNAIK Mahasayo:—"I beg to move—
'that the following proviso be added to clause 2 (1-A) of the Bill:—

"Provided that no official below the rank of a Deputy Collector shall be appointed as Collector"."

"Sir it is not known whether the Government want power to appoint persons other than Revenue Divisional Officers as Collectors. I think there should be some restriction as to the class of officers from whom Collectors should be appointed. We do not know what the policy of the Government in this matter is and whether they want to appoint even Tahsildars and Deputy Tahsildars as Collectors. It is with the object of restricting the selection of these Collectors to persons not below the rank of a Deputy Collector that I have moved this amendment."

Mr. MAHBOOB ALI BAIG:—"I second the amendment."

* The hon. Sir ARCHIBALD CAMPBELL:—"Mr. President, Sir, the Select Committee did away with the use of the term 'Revenue Officer' in the Act. In some places this officer is referred to as Collector and in some other places he is referred to as Revenue Officer. I quite agree with the Select Committee in thinking that only one term should be used. The definition of 'Revenue Officer' in the Act as it stands is as follows:—

"'Revenue Officer' means a Collector and includes any person appointed by the Local Government whether by name or in virtue of his office to exercise any of the functions of a Revenue Officer under this Act."

"A 'Collector' is defined in the Madras General Clauses Act of 1891 as follows:—

"A Collector shall include every officer who for the time being is authorized to exercise the powers of Collector."

"In neither of these clauses are there any words restricting the class of persons who can exercise the powers of Collector or Revenue Officer to Deputy Collectors only. As far as I am aware, Sir, there has been no complaint in the past that the Government have abused the general powers conferred on them by these clauses. It seems unnecessary to assume in the absence of proof to the contrary that the Governments in future would misuse their powers. I therefore suggest that the amendment is unnecessary."

The amendment was, by leave, withdrawn.

Mr. V. T. ARASU:—"Sir, if you will permit me, I should like to move the amendment that stands in my name at the end after all the minor amendments to the clause have been disposed of."

* The hon. the PRESIDENT:—"Usually we take first amendments seeking to delete the whole clause. If that amendment is not carried, we go to other minor amendments."

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Clause 2 (2) (d).

Section 3 (2) (d).

* Mr. V. T. ARASU:—" Mr. President, Sir, I beg to move—
'that clause 2 (2) (d) be omitted.'

" My reason for this is that there is a material alteration in the definition of an estate in regard to pre-settlement inam villages. Under the existing Act, a pre-settlement inam village is an estate only when the melvaram was granted in inam to a person not owning the kudivaram at the time of the grant. In the amending Bill, however, it is intended to widen the definition of an estate so as to take in all pre-settlement inam villages irrespective of the question whether the melvaram alone was granted and of the further question whether the grantee was the kudivaramdar or not at the time of the grant."

* The hon. the PRESIDENT:—" Will the hon. Member make it clear which portion of the clause he is proposing to omit? "

Dr. P. SUBBARAYAN:—" He wants to omit the whole clause."

Mr. V. T. ARASU:—" Sir, I have moved that clause 2 (2) (d) be omitted. The clause reads as follows:—

'(d) any village of which the land revenue without the kudivaram has been granted in inam to a person not owning the kudivaram thereof, provided that the grant has been made, confirmed or recognized by the British Government.'

" If this clause is omitted the effect will be the retention of this clause as it stands in the Act. That is to say, *status quo* will be maintained.

'Any village of which the land revenue alone has been granted in inam to a person not owning the kudivaram thereof provided that the grant has been made, confirmed or recognized by the British Government or any separated part of such village.'

" I want that this clause in the Act should be retained and that will be the effect of my amendment.

" I was saying, Sir, that the suggested amendment of the definition of an estate must in order to appreciate its effect be taken along with the amendment in the definition of private land. Private land is now sought to be defined in so far as it relates to pre-settlement inam villages as all that land in which the kudivaram has been acquired by the landholder before or after the commencement of this Act. In the Statement of Objects and Reasons it is stated that the intention of the Government is only to effect what may be described as verbal improvements without effecting any material change in the law. It is however extremely doubtful whether the amendments given notice of by some hon. Members, which I understand Government propose to accept, do not involve changes of a far-reaching character.

" The law relating to pre-settlement inams must now be taken to have been definitely settled by the decisions of the Judicial Committee of the Privy Council and by the High Court. Particular reference may be made to 41, Mad. 1012, in which Suryanarayana and others were plaintiffs and Pattanna and others were defendants. The Indian Law Reports (page 1012, volume XLI) says:

'The suits in which the above decrees were made, and which gave rise to the present appeals, were suits for ejectment brought in the civil courts by the

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appellants (plaintiffs) against the respondents (defendants). They related to the inam village of Korrugunta, of about two-thirds of which the plaintiffs were owners including certain lands referred to as minor inams. The defendants were their lessees, but their leases had expired. The plaintiffs' case was that the lands in suit were their Sarva Agraharam inam lands in which they possessed absolute rights of ownership, under their grant made by one of the Reddi Kings in 1373 to their predecessors-in-title. The terms of the grant could not be provided; but it was confirmed by an absolute deed of gift in 1752, and so recognized by the British Government.

'The main defence raised in the suits was to the effect that the lands in dispute formed an "estate," or part of an estate under the Madras Estates Land Act (Madras Act I of 1908) and consequently the jurisdiction of the civil court was excluded by the Act, and that the defendants were entitled to retain possession of the lands notwithstanding that their leases had expired.

'The munsif held that this defence was not established and made a decree in favour of the plaintiffs in each suit.

'The District Judge reversed those decrees and dismissed the suits.

'On appeal by the plaintiff the High Court (Sadasiva Ayyar and Spencer, JJ.) dismissed the appeals, and made decrees directing that the plaintiffs be returned to the plaintiffs for presentation to the revenue court.

'The question whether the lands in suit or any of them formed part of an "estate" within the meaning of the Madras Estates Land Act, 1908, depended on the construction of section 3, sub-section (2), clause (d), which defines "estates" as meaning—

"Any village of which the land revenue alone has been granted in inam to a person not owning the 'kudivaram' thereof provided that the grant has been confirmed, or recognized by the British Government, or any separated part of such village".

"With that should be read the last paragraph of section 8—

'Notwithstanding anything contained in this section, where, before or after the commencement of this Act, the kudivaram interest in any land comprised in an estate falling within clause (d) of sub-section (2) of section 3, has been or is acquired by the inamdar, such land shall cease to be part of the estate.'

"Sir, on this appeal, the Kings Counsel DeGruytherans Kenworthy Brown contended—

'that the respondents claim to possess rights of permanent occupancy—whether by virtue of custom or otherwise had not been established—and they had no rights in the lands in suit apart from the leases in which their tenancies originated, which leases had expired; nor has any fact been proved which excludes the jurisdiction of the civil court to try these suits. Neither the village in suit, nor the appellants' part thereof, was an estate within the definition contained in section 3, sub-section (2), clause (d), of the Madras Estates Land Act (Madras Act I of 1908). The onus was on the respondent, and there was no evidence that at the time of the grants the land was occupied by tenants or cultivated. In such circumstances, it could not therefore be presumed that the grant was only of the revenue. No such general presumption was laid down in *Ravji Narayan Mandlik v. Dadaji Bapuji Desai*. The view of the High Court is not supported by the authorities relied on. Reference was made to"

* The hon. the PRESIDENT:—"I think the hon. Member will do well to cite the case and the principles involved therein rather than go on reading long passages from the arguments of counsel on either side. It would be much better if the hon. Member confines himself to a statement of the facts and the principles governing them."

MR. BASHEER AHMED SAYEED:—"It is interesting, Sir."

MR. V. T. ARASU:—"I bow to your ruling, Mr. President. But I should like to suggest that this House being composed mostly of

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laymen, it is but proper that important judicial decisions on this subject should be placed before the House, so that the hon. Members may be able to cast an intelligent vote. I would however take your suggestion, Mr. President, and read only the important portions.

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"You have advised me not to make detailed reference to those cases reported. I shall take your hint. I would only place before the House the points decided in those cases. I speak of cases, because there are many cases reported: the case reported at page 586—45 Mad., the case reported at page 337—47 Mad., the case reported at page 453—52 Mad., and the case reported at page 962—21 Law Weekly. The general effect of these decisions may be very briefly stated as follows:—

"There is no presumption that the grant of an inam comprised both melvaram and kudivaram or that it was a grant of the melvaram alone. The question will have to be decided whenever it arises by reference to the grant itself where it is available and is unambiguous and if the grant is not available or is ambiguous, from the surrounding circumstances and conduct and actings of the parties. In a suit for ejectment the initial onus is no doubt on the plaintiff but the plaintiff can easily displace that onus by proving that the defendant was inducted into possession of the holding as a tenant. The defendant will then have to prove that he has occupancy right by custom by grant or by statute. There cannot be an acquisition of occupancy right by prescription."

"The above may be taken as a brief resume of the effect of the decisions in the cases referred to by me just now. From these decisions it would be noticed that, in substance, the burden of proof is cast upon the tenant. It can very easily be shown that the effect of the amendments contemplated by members of the Justice Party would be to put the inamdars in a position of disadvantage. By virtue of the new definition of an estate, all pre-settlement inam villages would come under that category and section 6 of the Estates Land Act would immediately apply . . ."

Diwan Bahadur Sir ALLADI KRISHNASWAMI AYYAR:—"On a point of order, Sir, I think the hon. Member is not speaking on the clause as amended by the Select Committee."

Mr. V. T. ARASU:—"Sir, I am explaining what would be the effect if the amendments proposed by the Justice Party are carried. I have suggested that the clause as amended by the Select Committee should be omitted and that the clause, as it stands in the original Act, must be retained . . ."

* The hon. the PRESIDENT:—"Is the hon. Member reading out a speech?"

* Mr. V. T. ARASU:—"Sir, with your leave, I should like to make use of notes before me; because it is a very highly technical subject. You cannot expect laymen to speak off-hand without being irrelevant. I crave your indulgence to read out portions of my notes."

* The hon. the PRESIDENT:—"Reading of speeches must be exceptional; in a case like the present the hon. Member must have prepared himself properly before he comes and places his views before the House. It is not at all desirable that Members of the type of Mr. Arasu should resort to reading manuscript speeches."

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* Mr. V. T. ARASU:—" This question is going to decide the relative rights of four thousand inamdars in this Presidency and several millions of ryots. I should be very careful in the expressions used by me."

Mr. M. A. MUTHIAH CHETTIYAR:—" May I suggest that hon. Members who wish to read out speeches, may print them and circulate them among the hon. Members of the House; then it will save the time of the House."

* Mr. V. T. ARASU:—" I am thankful to the suggestion made by the Mayor of Madras, which I think he would do well to adopt for himself. Many of us can ill afford to resort to such a procedure. That is the reason why I have not done so. There is no doubt that the amendment sought to be moved by the Justice Party would adversely affect the inamdars. The effect of that would be this—the onus of proof will fall on the inamdar, a procedure which is directly the opposite of the existing law, the law as laid down by judicial decisions."

Mr. M. A. MUTHIAH CHETTIYAR:—" Sir, you said just now that the hon. Member should not read from manuscript."

* The hon. the PRESIDENT:—" I myself wanted to draw the attention of the hon. Member again. Before that, a point of order has been raised again. I must strongly advise the hon. Member not to persist in the way he has been doing."

* Mr. V. T. ARASU:—" Sir, the effect of this provision would be, as I was saying, to place the minor inamdars who own small villages as inams, on the same footing as the big zamindars, like the Maharaja of Venkatagiri and the Raja of Bobbili. That is what I take exception to. Is it just to place these small inamdars on the same footing as big zamindars? Perhaps some of them may feel elated at this promotion. But we should realize that we are taking away the kudivaram rights which they have been enjoying from the time the grant was made, and make a gift of the same to third parties. Can anything be more confiscatory than this? Therefore I move that this clause may be omitted and the clause in the original Act be retained."

Mr. ABDUL HAMEED KHAN:—" I second the amendment."

* Mr. K. R. VENKATARAMA AYYAR:—" Sir, the clause which has been substituted by the Select Committee is, except for verbal changes, in legal effect identical with the clause which it replaced. The language of the existing clause in the Act of 1908 is

'any village of which the land revenue alone has been granted in inam to a person not owning the kudivaram thereof, provided that the grant has been made confirmed or recognized by the British Government, or any separated part of such village.'

The word 'alone' has been replaced by the expression 'without the kudivaram.' The intention is not at all to produce any difference in effect. Again the omission of the words 'or any separated part of such village' does not at all, in legal sense, have a different effect. Because if a whole inam village is an estate within the meaning of the first part

[Mr. K. R. Venkatarama Ayyar] [2nd November 1933]

of this clause, a separated part of that village—itsself a separate village—would leave it yet as a village. Therefore, Sir Archibald Campbell, when he proposed the deletion of the words ‘any separate part of such village,’ did not intend to produce any difference in legal effect. It might have a different meaning in case you are proposing to regard as an estate, a part of any separated part of a village itself, as that would bring under the category of estates, minor inams. It was always intended both during the enactment of the Bill of 1905—it became law in 1908—and during all the subsequent efforts at redrafting the law on the subject, that minor inams should not be brought into the category of estates for the purposes of the Estates Land Act. Therefore the result would practically be the same whether we retain the existing clause (d) as it is in the Act, or we adopt the substituted clause (d) which has emerged from the Select Committee. I may say that, if Sir Archibald Campbell would not really mind the carrying of Mr. Arasu’s amendment to leave the clause in the Act as it is, it would not really matter from the point of view of the Government or from the point of view of the various Members of the Select Committee who were at one with regard to this topic. It will not make any difference at all. Therefore if I may say so, this clause does not really merit further consideration from the point of view either of those who want it or of those who do not want the clause. Without wasting further time over the discussion of this immaterial suggestion which has come in the shape of an amendment, I would respectfully submit that we had better vote either for or against the suggestion of Mr. Arasu, because we do not change the law whichever way we vote. (Interruption) Some say that the clause is ambiguous. Those who are able to follow will probably appreciate what I say much more easily. What I say is we have spent three days over preliminary discussions and after all, all of us willingly or no, have fallen to the task of considering the Bill clause by clause.

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“What I am at pains to point out is whether you have the clause (d) as it is in the existing Act or clause (d) as it has now emerged from the present Select Committee, the legal effect is the same, and it will not do therefore to spend more time at any rate over the further discussion of this clause or the voting on it. Let us therefore proceed to vote straight. As I have hinted, it is immaterial which way we vote; let us not spend further time upon it.”

Mr. V. P. NARAYANAN NAMBIYAR:—“Sir, though I agree with hon. Friend, Mr. Venkatarama Ayyar, in saying that the main principle of the amendment moved and the principle of the amendment as it has emerged from the Select Committee are the same, I am afraid we have got to oppose the amendment of my hon. Friend, Mr. Arasu. Because if as moved the sub-clause is deleted, the amendments which have been given notice of with a view to alter the position taken up by the Select Committee would not come up for consideration before the House.”

* Diwan Bahadur Sir ALLADI KRISHNASWAMI AYYAR:—“Mr. President, with regard to the procedure to be adopted, I have a point to

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suggest. The main principle of the amendment tabled by my hon. Friend, Mr. Arasu, and the principle of the amendment as it has emerged from the Select Committee are the same. So far as the clause as it has emerged from the Select Committee is concerned, it leaves intact the law as it stood under the Estates Land Act. Mr. K. R. Venkatarama Ayyar is perfectly right in his statement. The only object of the Committee was an improvement in drafting according to their ideas; and secondly, not to have every part of a village as an estate. So far as substantive rights are concerned, they would be the same. That is to say, if a whole inam village is an estate within the meaning of the Act and satisfies the terms of the definition that every person in that estate would have occupancy right and the relations between the landholder and the ryot would be governed by the provisions of the Act, it would be as much true when the single estate is split up into two estates as when it continues to be a single estate. The hon. the Revenue Member has pointed out certain administrative inconveniences if every part of the village is to be treated as an estate for various purposes under the Act. The object of the omission of the words 'part of the estates' was not to interfere with the rights of the ryots in inam villages which come within the definition of 'estate' or to interfere with the legal relations subsisting between the landholder and the ryot. So, in view of the fact that in substance the clause as it has emerged from the Select Committee is to the same effect as the amendment that has been tabled by my Friend, Mr. Arasu, I would suggest the taking up of other amendments which go against the principle of this amendment. That is to say, there are amendments tabled by some Members of the Justice Party to the effect that every inam village ought to be made an estate. It would go against the principle both of the clause as it has emerged from the Select Committee and the original clause. If I may respectfully suggest to the hon. the President with the leave of the House, if this is withdrawn at this stage and those amendments are discussed, the main principle will then be discussed and we will have a division on the main principle. If, for example, any amendment which is brought forward by some Members of the Justice Party is passed, this will go and the original clause also will go, and there will be no point in bringing forward that amendment. Therefore, I suggest both to the House and to the hon. the President that those amendments which have been tabled with a view to make every inam village irrespective of the character of the inams be taken up for discussion first, because they all come under one category. I respectfully suggest to the hon. the President that it would be the more logical course to be adopted. I am not speaking on the merits of the question, but I suggest that it would be the more logical course to be adopted."

Mr. V. T. ARASU:—"Sir, I suggest that this amendment of mine may be taken up later on after the other amendments are discussed as suggested by the Advocate-General."

* The hon. Sir ARCHIBALD CAMPBELL:—"Mr. President, Sir, the amendment of the main Act in accordance with the proposal in the Bill,

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as it has emerged from the Select Committee, has the effect in the first place of leaving out the word 'alone' and substituting for it the words 'without the kudivaram.' The present Act runs as follows:

'any village of which the land revenue alone has been granted in inam to a person not owning . . .'

and that portion as amended would run as follows:

'any village of which the land revenue without the kudivaram has been granted in inam to a person . . .'

The reason for that amendment is, as has been pointed out, that when an inam village is granted by the Government or zamindar, it may be that other rights such as rights in waste lands, forests, etc., are granted in addition to the land revenue. Therefore, under the present Act, it might be open to some one to put forward the argument that in addition to the land revenue some other right of that kind had been granted and therefore the inam village is not an estate under the Act. That was not however the intention of the Legislature when the original Act was passed. It was only when the kudivaram was granted as well as the land revenue that the village was not to be treated as an estate. That is the reason for this proposed alteration.

"Sir, the other alteration is the omission of the words 'or any separated part of such village.' In the Act as it stands, certain portions of an inam village in which the inamdar has acquired kudivaram rights in certain circumstances, ceases to be an estate. For administrative purposes, it was thought desirable to avoid cases where part of a village was an estate and part of it was not. It seems better that we should treat the whole of the inam village as an estate and treat land the kudivaram of which belongs to the inamdar as private land. That principle was accepted by the Select Committee; and that is the effect of this amendment. I therefore submit that the clause, as passed by the Select Committee, should be allowed to stand as it is."

MR. V. T. ARASU:—"I withdraw my amendment."

The amendment was, by leave, withdrawn.

DIWAN BAHADUR B. MUNISWAMI NAYUDU:—"Sir, I move—

'that in sub-clause (2) the following be substituted as (d):—

"(d) any inam village of which the grant was made, confirmed or recognized by the British Government or a separated part thereof".'

It consists of two parts; the first says that a whole village be treated as an estate while the second says that part of it be treated as an estate. The position is this . . ."

* The hon. the PRESIDENT:—"May I point out one thing? If the hon. Member wants to move the two parts separately and wants separate voting on them, it would be much better if he takes up amendments 6 and 9 separately now and discuss them, so that there might be clear voting upon them, if necessary."

DIWAN BAHADUR B. MUNISWAMI NAYUDU:—"I am not moving the amendment in two parts; I only wanted to advance my arguments in

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respect of both the parts separately. I am moving the whole amendment, Sir."

* The hon. the PRESIDENT:—"Then I take it that you will not be moving amendments Nos. 6 and 9 on the agenda."

Diwan Bahadur B. MUNISWAMI NAYUDU:—"You will observe, Sir, that before my amendment No. 9, there is an amendment, No. 8, of the hon. Sir Archibald Campbell. Therefore, I can move No. 9 only after No. 8 is moved by him."

* The hon. the PRESIDENT:—"It will be clearer if the hon. Member moves the portion in No. 6 and then later on take No. 9. That will be better. If he wants to speak on the whole motion now (on No. 5) I shall, however, have no objection."

Diwan Bahadur B. MUNISWAMI NAYUDU:—"Then, Sir, in this amendment No. 5, I move the first portion, leaving the other portion thereof to be moved at the time when amendment No. 9 is to be taken up. I therefore move, Sir—

'that in sub-clause (2), the following be substituted for (d):—

"(d) any inam village of which the grant was made, confirmed or recognized by the British Government".'

Sir, in the year 1905 when the Government introduced the Bill for consolidating the law with regard to estates, the question of conferring occupancy rights was mainly before the consideration of the Government. So far as inams were concerned they were included in the definition of an estate. In the Madras Proprietary Estates Village Service Act, 1894, and in the Madras Hereditary Village Offices Act of 1895, the word 'estate' has been defined as in this Act; i.e., in four distinct categories—firstly, a permanently settled estate; secondly, portions thereof which are separately registered; thirdly, temporarily settled estates; and fourthly, inam villages or portions thereof. Therefore, for purposes of Act II of 1894 and Act III of 1895, which dealt with estates, a whole inam village granted, confirmed or recognized by the Government was treated as on a par with a zamin village. Similarly in 1905, when the original Bill was introduced, 'estate' was defined thus:

'An inam village or part thereof which has been granted, confirmed or recognized by the British Government.'

In the course of the proceedings, objection was taken by various hon. Members then that the definition as it was given included part of an inam, and therefore would also affect minor inams. The objection then taken was that while in the case of a whole village there might be a presumption and there might also be some justification for presuming that the ryots were to be considered as occupancy ryots, the same justification would not apply in the case of a small plot of land in the village, say, 20 or 30 acres in extent; in which case, it might be presumed that the inamdar was also cultivator. It was with a view to meet that objection that the hon. Mr. Forbes in his reply stated:

'I shall only deal with the main issues. To begin with, however, I may refer to an objection taken by the hon. Mr. Govindaraghava Ayyar which is not

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fundamental, but which seems to have created a certain amount of misapprehension, and that is the position of an inamdar under the Bill. An inamdar who is a landholder, as defined in the Bill, is not quite in the same position as a zamindar under the permanent settlement. In the remarks which I made in introducing the Bill, I referred to both classes under the general terms of landholders under settlement or by grant. An inamdar ordinarily holds a grant of land revenue and is an assignee, at any rate, in origin, pure and simple, and has not even the same pretensions as a zamindar under the permanent settlement to encroach upon the ryot's rights. But the hon. Mr. Govindaraghava Ayyar was doubtful whether the definition of landholder did not go too far in including certain inamdars and shrotriyamdars, especially those who enjoyed only portions of a village. Where an inamdar is an inamdar of a whole village, I do not foresee any difficulty. But where an inamdar is an inamdar of a portion or part of a village, it may very likely be that he is both the ryot and the landholder. If he is the inamdar of a whole village, it is almost certain that the grant made to him was a grant of the revenue, pure and simple. It is not likely that a whole village was lying waste. When he is the inamdar of a portion of a village, the grant may have been of a piece of the actual village waste land as well as of the revenue derived from it, in which case he is both the ryot and the landholder. In such cases the inamdar would of course be able to deal with the lands as the ryot of them.

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"Therefore, it was pointed out clearly that the Government's intentions were that when the original grant was of a whole village the presumption would be that the melvaram alone was granted and therefore the tenants of the village should have the same occupancy rights as those cultivating land in a zamindari, but when it was a piece of land in a village, the presumption in favour of the melvaram alone without kudivaram was not made. It was on this that the Select Committee on that Bill introduced the words 'village or a part thereof' in which melvaram alone without the kudivaram was granted. Now, the presumption of melvaram alone being given without the kudivaram was evidently intended to apply to the cases of whole inam villages granted. When the Select Committee report came up for discussion, the hon. Mr. Srinivasa Rao who was then a Member moved an amendment that the words 'or any part thereof' should be deleted. This is what he said in that connexion—

"I move for the omission of the words 'or part thereof' because if these words were allowed to stand, they would have the effect of including the petty inamdars whom it is not proper to bring under the operation of this Act. Therefore the omission of these words is rendered imperative on account of the position of the petty inamdars whom I do not think the Government intend to bring under the provisions of this Act, which are meant mainly for big landholders."

"Then the hon. Mr. Forbes had to meet this objection and he introduced an amendment on behalf of the Government to delete the words 'or part thereof' and substitute the words 'or any separated part thereof.' With regard to that amendment Mr. Srinivasa Rao said:

"As to the insertion of the words 'or any separated part of such village' mentioned in the hon. Mr. Forbes' amendment, those words may be put in either at the end or at the beginning of the sub-clause."

"Under those circumstances the words 'or part thereof' were omitted from the Bill as passed by the then Select Committee, and the words 'or any separated part thereof' were accepted as solving the difficulty pointed out by the hon. Mr. Srinivasa Rao. You will see,

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therefore that the Bill as finally accepted by the Council then and as it was passed in 1908 included a whole inam village in the definition of 'estate.' It proceeded on the presumption, that if a whole village was granted, it was not on the basis that the whole village was cultivated but that there must be some uncultivated land; and, therefore it must be presumed to be a grant of the melvaram only. That presumption was accepted by the Government. This presumption was also accepted by the highest courts. In the Madras Act III of 1895 dealing with the emoluments of village officers, jurisdiction of trying suits relating to the inams was given to the Revenue courts. And there when a question arose as to whether the emoluments consisted of the grant of melvaram only or melvaram and kudivaram a statutory presumption was made in favour of melvaram only; and it was stated that when objection was raised as to the question of the character of the inam, the presumption should be that only melvaram was granted subject to the question of the kudivaram being proved by the owner. In some decided cases it was held that in the case of such inams, it was only the melvaram that had been granted but not the kudivaram also. That was the law up to ten years ago, when the Privy Council held that there was no such presumption that the melvaram alone was granted or that the kudivaram was not granted, and that, therefore, the party who goes to court would have to show that the melvaram alone was granted; the party going to court has to prove it. The result was that, until the Privy Council decision, a whole inam village was considered an estate and treated as such. After this decision of the Privy Council, the onus of proof lay on the tenant to prove that melvaram alone was granted to the inamdar, but not the kudivaram. As a result of that a number of suits were filed by inamdars to eject the ryots or to claim right to both kudivaram and melvaram. My hon. Friend, the Advocate-General, smiles dissent. But I may say there were many such suits filed, and even now some of them are pending. Still there are a number of cases in the High Court. And unless the Government clearly define inams so as to admit of no doubt, tenants in occupation for even sixty years, since the days of their fathers and grandfathers may be ejected, because they will not be able to prove that only the melvaram was granted to the inamdar. So far as the Government are concerned, they took the view that this distinction of kudivaram and melvaram should be done away with and that a whole village granted as an inam should be treated as an estate. The original provision in the Bill of 1905 was to that effect. Now, Sir, the hon. the Revenue Member has been kind enough to place in our hands copies of a statement showing clearly the provisions of the Bills prepared by various committees in regard to this definition of inam. Hon. Members will see that there were four Bills which are referred to. If they refer to item 4 in this tabular statement they will find that all these four Bills have consistently laid down that the definition of inam village should be this: 'Any inam village of which the grant was made or confirmed by the British Government.' There is a proviso to which I will refer later on. So far as this definition is concerned, all references

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to melvaram or kudivaram were omitted. In the Bill of 1905 the same definition was adopted, and in regard to the Bill now before this House, when the Bill was sent to the Select Committee, the same definition was adopted. The Government therefore had been consistent throughout; and the distinction as to whether it was the melvaram alone that was granted to the inamdar or whether the kudivaram also was granted to him was not made. In the Select Committee, as hon. Members will find, after some discussion and considerable difficulty, the attempt of the Government to restore the old position was defeated. We are now trying to see that the original intentions of the Government as expressed since 1905 are restored so that a whole inam village should be treated as an estate irrespective of the question whether the melvaram alone was granted to the inamdar or the kudivaram also. In this connexion it will be illuminating to read the proceedings of 1907 when during the debate, Member after Member who was advocating the interests of the inamdar definitely and positively stated that if the onus of proof was thrown on the inamdar to show that kudivaram was also granted to him, it was absolutely impossible for him to do so. In fact, there was an attempt to restrict the inams only to those granted by the British Government. In the case of inams granted by the British Government there is a possibility of the original title-deed being available. But in the case of grants not made by the British Government, that is, grants by the Indian Princes or by Rajas, no such grant or title-deed will be available. I am mentioning this for the purpose of showing that those who are in possession of inam villages may not have the original documents in their possession and so may find it impossible to prove whether it was the melvaram alone that was granted to the inamdars or the kudivaram also. Do you expect the tenants who are not in possession of such documents to prove that melvaram alone was granted to the inamdar and not the kudivaram? So, Sir, it is very difficult for the tenant to prove it. If the onus is thrown on the tenant and he fails to discharge that burden, and if on that account the inam is not declared an estate, it is asking for the impossible from him. Every tenant of inam villages would therefore be in the unhappy position of not being able to prove this, and he runs the risk of being ejected or continuing there subject to the conditions which the landlord may choose to impose. There is no remedy for this in the Act of 1908.

“ Another point I want to touch is this. Prior to the Act of 1908 there was the Act of 1865 which governed the relations between the landlord and tenant. It was the Rent Recovery Act, and under this Act these inams were, for the purpose of recovery of rent, considered to be lands coming under its operation. I may in this connexion refer to the speech of the hon. Mr. H. G. Stokes, then a Member of Council, on this point. He says:

‘ Act VIII of 1865 applies to inamdars and applies to these villages, and the reason why we have this opposition is entirely owing to the importation into these whole inam villages of occupancy right by statutory declaration. If this Bill applies to aghrahams, occupancy right will be recognized therein.’

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“ So long as the question of occupancy right was not imported, they said they came within the Act VIII of 1865. Once the occupancy right was imported, they said ‘ Let us be out of that Act and let us not have the Act of 1908.’ You will therefore see that in 1908 there was an attempt to exclude them from the operation of the Act, and the Government have steadily refused to accede to the demand.

“ Now, Sir, what I want to do through this amendment is to see that the original intention of the Government is restored. As I said, the original intention of the Bill according to the Government is that whole inam villages should be considered to be estates. That was pointed out in the speech of the hon. Mr. Forbes. The intention of the Government was, I may repeat, that so far as whole inam villages were concerned, they should be estates. I think the Government have the right to define inam villages as whole inam villages irrespective of the question of the terms of the grant, whether only the melvaram was granted or otherwise. I am now only asking the Government to restore the position as it stood before 1908. If this is not done, the position will be that while we have 20 or 25 zamin estates in this Presidency, we will have something like 5,000 inam villages coming under the definition of ‘ estates ’ scattered in the whole Presidency. The fate of the ryots in those villages is to be decided by this Bill. These inams were originally granted as whole villages, but have subsequently become divided. In the case of such of the inamdars as are actually in possession of these villages, there will be no difficulty at all. But in the case of others, that are being cultivated by ryots, the inamdars will have no right to eject them and take possession of the lands.

“ Sir, the policy of the Act of 1908 was to confer occupancy right to ryots in estates. The hon. Mr. Forbes had definitely stated that the occupancy right is inherent in every cultivator who holds the land and cultivates it according to the customary law of the land, and that the Regulation of 1802 which gave permanent settlement to the zamindars will not have the effect of defeating the rights of cultivators. It is to make this matter clear that the Government passed the Regulation IV of 1892 in which they declared that the words used in the Regulation of 1802 as proprietary rights were not meant to take away the rights of the cultivators of the soil to the land. It is therefore clear that in regard to the person who occupies the land within the geographical limits of what is called ryotwari, or zamindari area or an inam village, the rights of the cultivator are the same. They are allowed to continue to cultivate so long as they pay revenue to the Government. That is what we mean by occupancy right.

“ Therefore, I move, Sir, the first part of my amendment, as I already said, to substitute for the amendment proposed in sub-clause (2) the following: ‘ (d) any inam village of which the grant was made, confirmed or recognized by the British Government.’

“ One other point I want to make is this. So far as the first part of amendment of which I gave notice is concerned, there need be no,

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apprehension that in respect of the whole inam villages there will be any difficulty at all. In regard to villages which were originally held by zamindars in whole and which now continue as such, there will not be any difficulty at all with regard to occupancy rights. But in the case of inams split up subsequently owing to partition or otherwise, the law should not be applied. Whatever injustice was done to inamdars was already done in 1908, and I am only requesting the Government to restore the old position so that the law may be free from conflict. I want that the right should be enjoyed by the person cultivating, whether it is zamindari or inam."

Mr. P. V. KRISHNAYYA CHAUDARI seconded the motion.

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* Mr. K. R. VENKATARAMA AYYAR:—"Mr. President, Sir, I am constrained to oppose this amendment. I think both at the time when the Madras Estates Land Act I of 1908 was passed and during all the subsequent occasions when Bills were drafted with a view to get rid of difficulties that arose in administering that Act and again, now on the occasion of the present Bill, it has been made absolutely clear on behalf of the Government by the various spokesmen who expressed the policy of Government that their intention was only to state statutorily with certainty the true relations and the existing rights of landholders and ryots and not at all to create for the first time occupancy rights where none existed or to deprive persons who owned occupancy rights of such rights with a view to or with the result of conferring such rights on others who had not such rights. I think, Sir, that Sir Archibald Campbell over and over again has made it clear as the intention of the Government in proceeding with this amending Bill not to disturb the existing rights; but merely to provide for the getting rid of difficulties that have arisen in the course of administering the Act I of 1908. My hon. Friend, Diwan Bahadur Muniswami Nayudu, has suggested, in the course of his speech in moving this amendment, that whatever Government did on the various occasions when they took up this amendment whether in 1908 or now, he is able to discover as lurking underneath whatever they did an unfulfilled intention of their doing more than what they did. He suggested that it was the intention of the Government to confer occupancy rights upon the cultivators of lands in whole inam village at any rate, and that wherever the whole village inamdars did not cultivate their lands themselves, but left it to others to cultivate their lands, it was the intention of the Government to deprive the inamdar, even in cases where they really owned the kudivaram interest also, of such kudivaram interest and confer it upon the cultivators. I absolutely fail to discover any such intention on the part of the Government, whether you are thinking of the Government of 1905 to 1908 or thinking of subsequent Governments in whose times the subsequent Bills have been drafted. Sir George Forbes, Mr. G. S. Forbes as he then was, has been quoted to this House very imperfectly. If I remember right, my Friend, Mr. Muniswami Nayudu, read from pages 16, 17 and 18 where Mr. Forbes met in a general way certain observations that fell from Diwan Bahadur L. A. Govindaraghava Ayyar. Subsequently, when the

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clause, as it emerged from the then Select Committee, was taken into consideration by the then Legislative Council, the late Mr. V. Krishnaswami Ayyar with the matchless lucidity and strength that he commanded, went into the whole question and he said that this question of inams was a most thorny question. Nobody who was acquainted with the history of the inams and claimed to have a considerable acquaintance with the history of inams from his professional experience gained in the conduct of numerous important cases, nobody who knew anything of the history of inams would venture to dogmatize as to the true nature of an inam grant. The language of the inam title-deed itself was by no means a dependable criterion in answering the question what was the subject-matter of the grant—whether the lands themselves, or only the melvaram interest which represented the Crown demand upon the lands, i.e., the land revenue. Even in cases in which apparently the language made it appear that the lands themselves were the subject-matter of the grant, it was always felt that there was scope for ripping open that language and proving really that it was a loose form of expression which was unfortunately adopted even in cases in which the melvaram alone was the subject-matter of the grant. Therefore, it came always to be a question, notwithstanding the language of the title-deeds, into which the courts had to go in the light of the facts that were actually placed before them by the contending parties as to what was the subject-matter of the grant. Nor was this very difficult question facilitated in its solution to any extent by the proceedings of the inam settlement authorities; because the Inam Commissioners who were engaged over those settlement operations never purported to deal with or decide the question what was the subject-matter of the grant, whether the land itself was the subject-matter of the grant or whether melvaram or land revenue was alone the subject-matter of the grant. Again, the difficulty besetting the topic was not confined to that question. A further question had always to be answered with certainty before you could determine the true nature of the inam. Was the grant to a person who already owned the kudivaram or was it to a person who did not own the kudivaram, i.e., a stranger? That always would make a difference as anybody would easily see. If certain people already owned the kudivaram before the inam grant and to such people the Government of the day or anybody standing in their shoes as an assignee of the Government made a grant of the melvaram or land revenue alone, obviously it was a case not simply of an inamdar who was an assignee of merely the Government revenue. It was a case of pre-existing kudivaramdar's rights being enlarged by the melvaram also being granted to him. We, in this country, are quite familiar with the ancient kings conferring on inamdars either the whole of the melvaram or half of it. It may be a case of *sarvamanyam* or *ardhamanyam* or in certain other instances of a quarter share of the melvaram which was a case of *chathurbhagam*. In all cases, in which the grantees of the melvaram were kudivaramdars obviously if you want to sweep them in by a stroke of the legislative pen into the category of landholders on a par with zamindars, you are depriving them of their pre-existing

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kudivaram interests and you are conferring those interests by statutory transfer upon the tillers of the soil who are no better in point of law or in point of fact than tillers under ryotwari holders. I own my own ryotwari holdings in my native district and my present tiller is the son of my grandfather's tiller. Because they have been discharging their duties faithfully, my family has continued them as tillers without disturbing them. But, notwithstanding his long-continued charges of the same tenement under the same ryotwari pattadar, does anybody suggest that these tillers, by reason of the length of the occupation, should be regarded as the possessors of heritable and transferable rights? Really, they have not got any holding. They were only contributors of labour who were no better than annual contributors of labour, who were suffered in the operation of the contribution of labour for generations because both parties were satisfied with each other. If, then, you will not feel any justification for investing that class of tillers under ryotwari holders with occupancy rights, heritable and saleable occupancy rights, what justification is there to compel those inamdars who were previous occupancy holders of the land of their inam village to whom what was granted by way of inam was only melvaram, what justification could there be to rid them of their pre-existing kudivaram ownership and to confer it by statute on their tillers? I say that all this was pointed out with great force by the late Mr. V. Krishnaswami Ayyar in the course of the debate on this identical clause after the previous Bill emerged from the Select Committee. His complaint was that the drafting as it emerged from the then Select Committee, left the matter somewhat uncertain in its effect, and that if it was not further amended so as to make the intention of the Bill and the draftsmen absolutely clear and free from all possibility of doubt, there was the risk of the whole class of inamdars being swept into the category of landholders on a par with zamindars and the confiscation or expropriation of kudivaram interests belonging to that class of inamdars would become complete. The hon. Mr. Forbes, Mr. G. Stokes, Mr. Atkinson, all of whom possessed considerable administrative experience on the one side, and the hon. Sir P. S. Sivaswami Ayyar, the then acting Advocate-General on the other, all stated on behalf of the then Government that in moving the clause of the Bill as it was originally drafted or as it was drafted by the Select Committee or in piloting the re-drafted clause before the then Legislative Council, it was far from the intention of the Government to deprive the inamdars who really owned kudivaram rights of an iota of their kudivaram interests.

1 p.m. "It was only a question of drafting. If Mr. V. Krishnaswami Ayyar complained, for which Mr. Forbes said there was a good deal to be said in its favour, it was a complaint only against drafting, and not against the intentions of the Government. So far as the intentions went, the intention of the hon. Mr. Krishnaswami Ayyar exactly coincided with those of the Government. It was only a case of drafting. It did seem that the drafting was not perfect, and Mr. Forbes said

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that he would be obliged if Mr. Krishnaswami Ayyar would suggest the necessary amendment by way of draft, which would make the meaning and intentions of all sides quite clear. Then, Mr. Krishnaswami Ayyar wound up that day's proceedings by saying that he would consult with the Advocate-General and that an amended or revised draft would be placed before the Council. The amended or revised draft was accordingly agreed upon, and the Government itself came up with that revised draft on the following day, and Sir George Forbes himself moved the revised clause. That revised clause is, except for negligible variation of phraseology, the identical clause which you now find as part of Act I of 1908. That being so, Sir, I venture to deny the correctness or accuracy of my hon. Friend, Mr. Muniswami Nayudu's statement that it was always the intention of the Government to deprive, in the case of the whole inam villages, the inamdars of their kudivaram interest. The opposite was the avowed or confessed intention of the Government as declared time and again by various spokesmen of the Government, and that opposite intention was deliberately and carefully sought to be given effect to in apt and well-chosen words which were eventually drafted by the then Advocate-General and Sir George Forbes on behalf of the Government, and by Mr. V. Krishnaswami Ayyar on behalf of the inamdars, really on behalf of the country as a whole. That being so, it not being the present intention of the Government according to its spokesman to rob Peter to pay Paul, or to set an example along lines of communistic legislation, I ask whom are those who are behind this amendment really supporting? If the Justice Party and if the landholders who loom large in that party at the present moment want to support this amendment, it really comes to this. You are not recognizing occupancy rights where they exist. You are destroying occupying rights where they exist by robbing the inamdars who own them and you are creating new occupancy rights where they do not exist by erecting casual cultivators of the soil into heritable occupancy holders with powers of alienation. That would be a good, bold step in communistic legislation. Why this camouflage and put on this mask? Why don't you come out straight and say, 'we want communistic legislation. We feel that there are certain people who have property rights, who do not deserve to have them because they are absentee landlords, who leave the burden of cultivation in the hands of the tillers of the soil, their cultivating tenants, and we want these people who raise the crop by the sweat of their brow to be erected into the position of the owners of the soil.' Say, so. Then you will really be communist legislators. Really the zamindars who loom large here want to add to the number of people who would be interested in landlordistic legislation by converting the kudivaram-melvaramdars into melvaramdars only and creating as their opponents in their own villages their loyal and trusting tillers into rival owners. Apparently, their idea is that those who are now engaged in activities whether in the Legislative Council or outside as if for protection of occupancy rights, will henceforward swell the ranks of those who would by legislation secure protection for landholders as against occupancy

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holders. Well, that may be at the back of the minds of the few wealthy landlords who want to add to their side for purposes of agitation a large number of small landholders also. And if it is the intention of others like my hon. Friend, Mr. Muniswami Nayudu, to secure a vantage ground at coming elections by merely being able to say 'we were the friends of the poor cultivators in inam villages by stressing for legislation which had the effect of securing occupancy rights which before they had not,' I do not think they will be trusted long by the people of this country who to a very large extent will become enfranchised under the coming regime, because by instinct the people of this country are conservative and not communistic. If credit is claimed for legislation which has the effect of robbing Peter to pay Paul, then everybody would think what really is the effect of encouraging such legislators and they would, without much difficulty or without taking long over it, say 'now it is X's turn to be robbed; my turn will come to-morrow; I will not cast my lot at all with expropriating legislators.' Whether therefore as an election cry, or as an attempt to add to the ranks of the landholders who will be interested in the future in landlordistic legislation as against tenants' rights legislation, I think this is a dangerous experiment over which such opposite forces as Mr. Muniswami Nayudu represents and the Raja Sahib of Bobbili represents for the moment by a strange irony or mystery seem to be agreed and banded together. Really, this matter has been dealt with conclusively by the previous legislature in 1908. My hon. Friend, Mr. Muniswami Nayudu, read to the House from pages 17, 18 and 19 from Sir George Forbes' speech, when the Bill was introduced. You will permit me to draw the attention of the House to the speeches of Sir George Forbes which were not conceived or delivered by way of conflict with his earlier pronouncements but by way of explanation and amplification of his earlier pronouncements. On page 37, this is what the hon. Mr. Krishnaswami Ayyar said:—

'I have had considerable experience in the course of my professional work of cases connected with various inams. The history of inams is a matter difficult to dogmatize upon. There are various inams of various descriptions. The history of inams is one of the thorniest questions of the country and nobody can be in a position to say anything definitely about them. I have known, in the various stages of a case, different courts coming to different conclusions as regards what was the exact nature of an inam. It has often happened that there were persons who were occupants of a village—you may speak of them as owners—and who were paying revenue to Government. The Government did remit the revenue and said: "To you owners of the soil, we remit the whole of the revenue or remit one-half, which is sometimes called arthamaniam or remit only one-fourth, which is called chathurbagam." Therefore they are owners of land, occupiers or mirasidars if you like to call them, or ryots, if you call them by that name, but they are owners of land first and subsequently owners of revenue which has been assigned to them . . . They are owners of the land first and next owners of revenue, because it was assigned to them by the Government of the day. In some cases, what has been granted is not to the owner of the soil himself, but the revenue has been granted to somebody other than the owner of the soil, in which case there are two persons—the person who receives the rents and profits of the land is one, that is the owner, and the person who has received the assignment of revenue from the Government of the day is the other. In the case of the latter where the assignee of the revenue is one and the holder of the land is another, there is no difficulty

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whatever in the application of the Act. But where a person was the owner of the land first and became himself the assignee of revenue, then to apply this Act to him would be to cause the greatest hardship. You may say that the man is an absentee owner of the property, though I am not willing to subscribe to the proposition that not more than one-fiftieth of the inamdars are resident owners of the property. Be that as it may, there is the fact that they are the owners of melvaram and kudivaram. You have the inam settlement which does not settle the question as to whether they are the owners of the land and whether the land itself was granted to them in inam or whether the revenue alone was granted to them or whether they were original owners of land and got the revenue assigned to them or whether the revenue was assigned to a different person from the owner. These questions were not settled by the Inam Commissioner and they are not settled by any title deeds. Notwithstanding the title deeds which often say in customary language that the land has been granted, the matter has been litigated and opposite conclusions have been come to in several cases. That being so, the application of this Act to persons who were already owners of the soil but who subsequently became the assignees of revenue would mean that where they allowed cultivators to come under them though they were owners, you practically will be giving the tenants occupancy rights, taking away the ownership of the property from the inamdar in whom it vests at present.

'This will be the effect of the legislation. This will cause the greatest hardship as it will be taking away not in the interests of the country but in the interests of particular individuals, the ownership of the property from those who have held it ever so long.'

"Then the hon. Mr. Forbes at once intervened and said: 'They will not come under the Act. The sub-clause says: 'in which land revenue alone has been granted, etc.' If this observation had been in the mind of my hon. Friend, Mr. Muniswami Nayudu, he would not have ventured to claim that it was the undisclosed or lurking intention of the Government always to confer occupancy rights upon the tillers under inamdars who owned the kudivaram and who were themselves occupancy tenants even in villages which are whole inam villages.'

"Mr. Krishnaswami Ayyar in answer to Mr. Stokes, said:—

'It may be that land revenue alone is given or it may be that the whole of the land is given. We do not know in each particular case whether land revenue alone was given or whether the land itself was given or whether land revenue was given to the person who held the land before or to a person other than the man who held it before. All these complications exist, and it seems undesirable to include this sub-clause under the provisions of the Act, whereby you will be conferring occupancy rights upon a class of people, similar to cultivators under ryotwari holders. The Council is aware that ryotwari tenants do not always cultivate and yet there are a number of persons working under them; sometimes they are annual lessees even if you exclude labourers. Is it proposed to give occupancy rights to these tillers of the soil? If not, why should a difference be made in the case of inamdars and occupancy right confirmed on the cultivators, notwithstanding the fact that the ownership of the soil vests in the former? Why should occupancy rights be conferred upon them? Is it merely because they happen to be squatting upon the land?'

"Then Mr. Forbes butted in:—

'What was understood in the Select Committee was that the occupancy rights should be recognized of those inamdars who have both melvaram and kudivaram rights in the land. Whether the words employed in the sub-clause carry out that idea may be for discussion. The question is how these words should be altered so far as inams are concerned, in order to ensure that where inamdars have both the kudivaram and the melvaram, they should be conferred the occupancy right. This particular sub-clause was considered and discussed at very great length in Select Committee. All the arguments now advanced

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were considered, but perhaps the language of the sub-clause may not convey what is intended. If the hon. Mr. Krishnaswami Ayyar would suggest some modification to carry out the purpose, we may consider it. Where an inamdar has the kudivaram right, there is no reason why his occupancy right in respect thereof should not be recognized.'

"This is what Mr. Forbes said. The hon. Mr. Krishnaswami Ayyar then rose up and said:—

'The language of the present sub-clause will sweep the whole class of people that I have referred to into the sub-clause which was not intended. If it was not intended, it is better to make the idea clear. The consideration of this sub-clause may be adjourned till to-morrow and we will see in the meantime whether, in consultation with the hon. the Advocate-General, we cannot suggest language which may be acceptable to the Council.'

"The next day, the hon. Mr. Forbes himself came forward with the revised draft clause which stated: 'any village of which the land revenue alone has been granted in inam to a person not entitled to the kudivaram thereof, provided that the grant has been made, confirmed or recognized by the British Government.' In consequence of this alteration, he proposed a consequential amendment to another clause to which I will advert later on.

"Then Mr. Krishnaswami Ayyar said that the revised draft proposed on behalf of the Government met his objection. Mr. Forbes then stated that it appeared that what was intended by the Select Committee was now conveyed in the amendment. He also stated that by legal definition an inamdar was strictly a person who held a grant in which the land revenue alone was granted.

"Whenever, therefore, Government spokesmen of that time were employing the word 'inamdars' they were having in mind only the grantees of land revenue alone who were not already kudivaramdars or to whom at the same time kudivaram also was not granted.

"Reference was made by Mr. Muniswami Nayudu to Madras Acts II of 1894 and III of 1895. The purpose of those Acts is quite different from the purpose which is engaging us now. Those Acts did not at all advert to the question, in whom is the kudivaram interest in these inam villages vested—whether in the inamdar or the cultivator under the inamdar. For purposes of appointments of hereditary village officers and control of such officers alone those provisions were enacted.

"Again, a reference was made to Madras Act VIII of 1865 by my hon. Friend. Madras Act VIII of 1865 no doubt gave processual benefits to inamdars same as it gave to landholders. But it is very well known whether in the case of zamindars or inamdars that Act left untouched the question of what were their relative substantive rights and who held the kudivaram interest as against whom. Therefore the argument to the extent that it is based upon these three enactments is absolutely irrelevant and ineffectual. In so far as an attempt was made to misdirect this House by mentioning the names of Mr. Forbes and Mr. Stokes, I have pointed out very clearly from their own previous utterances that they said, not what Mr. Muniswami

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Nayudu claims they said, but the very opposite of it. I may, on the other hand, with greater force and truer claim, try to influence the opinion of this House by myself indenting upon those names and stressing their pronouncements for the consideration of the House at the present time.

"Then some reference was made to previous Bills. As one could gather from the parallel statement of Bills which was placed on the table of the House this morning, I am afraid a very superficial attention appears to have been given to these parallel statements. Whether you take the Bill of 1922 or the Bill of 1928 which are printed in the left half of this parallel statement, you will find in clause 4 of the Bill,

'In section 3 of the principal Act, the following amendments shall be made, viz., "any inam village of which the grant was made or confirmed by the British Government:

"Provided that where the entire kudivaram interest in any land in the village vests in the inamdar such land shall cease to be part of the estate."

"If my learned Friend, Mr. Muniswami Nayudu, had cast his eye upon that proviso, I think he would not have risked the reference to this parallel statement. The same proviso occurs also under the head 'Revised Bill of 1922.'

"Again, take the third edition of the Bill of 1922 as revised by the sub-committee of the Amending Committee in 1928: 'Provided that where the entire kudivaram interest in any land in the village vests in the inamdar such land shall cease to be part of the estate.' But the effect of these provisos, whether you find them as provisos under clause 4 of these Bills or, subsequently also as part of section 8, is to leave kudivaram rights where they existed without transferring them from those who had them to those who had them not. That is the feature of it that we are now adverting to. Is it to be the policy of our legislation at the present time to take it from those who have and confer it on those who have it not? That is the short question which we have to answer. If the Government are really true to their professions that it is not their intention to change to any extent the substantive rights as between those who have them at the present time and those who have them not, if that was the policy of the predecessors of Sir Archibald Campbell and if that is the real policy as it is avowed to be, then all I can say is that the Government is pledged to continue its adherence to the clause as it emerged from the Select Committee without becoming a consenting party to any change in the clause along the lines proposed whether by the Justice Party amendment or by Mr. Muniswami Nayudu's amendment. I do not really mind who are all ranged together on the present occasion. I only want that the Government, the British Government in this country as such, should not take sides in such a matter and should not wed itself by reason of the artificial collateral advantages they may be deriving from one set of partisan supporters in other respects to a scheme of confiscatory and expropriatory legislation.

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"This House heard the hon. the Raja of Bobbili say only the other day—the words are ringing in our ears yet—that what he was particular about is that there should be no confiscatory or expropriatory legislation. I ask him, I ask his supporters, I ask his quandom and present allies whether, from the Treasury Bench or other Benches,—I put this question also to the European block though unfortunately they are not present here at the moment—I ask the whole lot of these groups in this House, whether, if this amendment is carried out, it would or it would not be confiscatory, expropriatory legislation. I have not the least doubt that from all that has been said on earlier occasions on this topic and again from what has been said here to-day, it is absolutely clear that legislation of this kind will mean nothing less than robbing Peter to pay Paul. It is confiscatory, expropriatory legislation.

1-30 P.m. "I say let those who make these tall declarations make good their declarations not simply in the word but in true effect and meaning.

"It was said in the course of his speech by Mr. Muniswami Nayudu that there are about 5,000 inam villages. He also said that the fate of the cultivators in these inam villages was at stake. What fate? How is it at stake? Is there an iota of evidence for it? In villages where the grant was not only of the melvaram but of the kudivaram also, or of melvaram to those who already owned kudivaram, what was the previous plight or right of the cultivator? It was not the plight or right of the occupancy holder. It was as a mere tiller of the soil which in no sense differed from and was in no sense more valuable than the right of the tiller of the soil under the ryot in a ryotwari village. If so, where is there any question of the fate of this class of cultivators?"

At this stage, the House adjourned for lunch.

After Lunch (2-35 p.m.)

Mr. K. R. VENKATARAMA AYYAR:—"Sir, reference was made by the hon. Member from Chittoor to what he said was the policy of the Madras Act I of 1908. He said that the policy was to confirm occupancy rights. I do not quarrel with that statement. The policy was to confirm occupancy rights where they existed and not at all to destroy occupancy rights and confer them upon those who have not got occupancy rights. In fact from the earliest of times, the policy of the British Government in this country has been to leave those customary immemorial substantive rights untouched. At one time the idea prevailed that the effect of the permanent settlement regulation was to make the zamindars to whom sanads were granted in conformity with the regulation, proprietors of the soil. Nothing of the kind was intended, notwithstanding the employment of the loose term 'proprietors.' That that was so, and that all persons' rights were intended to be left unaffected, and in fact, were left unaffected, was brought out clearly by the subsequent Regulation IV of 1822. But so far as the inamdars are concerned, what is

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important to remember is, they are not to be assumed to be on a par with the zamindars. Whereas zamindars were not the sons of the soil but were only assignees of land revenue, so far as the inamdars were concerned, it was a question in the case of each inam village what the grant was, whether it was only of the melvaram to a person who had not already owned kudivaram, in which case undoubtedly the position would approximate to that of a zamindar, or whether it was a case of the previous kudivaramdar getting a grant of the melvaram right in addition. In that class of cases, where the inamdar was able to cultivate the land with his own labour or hired labour or was letting it to cultivation to tillers, his occupancy right did not go and he could not be dealt with as on a par with the zamindars. Even prior to the Madras Act I of 1908, when Act VIII of 1865 held the field, even then, in the case of an inam it was held that the inamdar was not on a par with the zamindar and that the ruling in the Cheekety case, 23 Madras case, would not be applicable. Therefore, nothing is gained by saying that inams came under the processual Act VIII of 1865. The net result of the whole thing comes to be that the avowed policy of the British Government in this country has always been to leave substantive rights as they remained under the law of the land and not to destroy such rights with a view to conferring them on those who had not those rights. The law of the land in the case of inams—Mr. Patnaik asks me—what it is. There were inams and inams; you could not from the fact that you are referring to a village or part of a village as inam predicate that the tillers of the land in the area which you had in mind had necessarily occupancy rights as the tillers of waste lands or of cultivated lands in a zamindari area would have. It was a question of fact in each case according to the law of the land. If what the inamdar owned was only the melvaram without the kudivaram, in which case he was on a par with the zamindar, the occupier would have the right of occupancy and not he. It was a question for proof whether he had kudivaram also in which case there would be no justification to treat him as if he had not that and to reduce him to the inferior position of a zamindar. That being so, the policy of the British Government always was to leave vested rights as they were and not to tamper with them. The Permanent Settlement Regulation did not tamper with the rights, but left them as they were. The Act VIII of 1865 did not touch the question of substantive rights at all, whether in the case of inams or of zamindaris. In the case of Act I of 1908 again, the Government did not interfere or tamper with the established rights, but merely statutorily declared what those rights were according to the customary law of the land, in conformity with that law. With regard to inams, after lengthy and complete discussions, the Government and the spokesmen of the people of this country came to an agreement as to how inams were to be dealt with in Act I of 1908. At the present moment, when this Bill has come up again at the instance of Government, to get rid of mere administrative difficulties in the working of the Act I of 1908, it has been declared to be the policy of the Government

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not to tamper with substantive or vested rights. When this intention and policy of the Government has been made good by the Select Committee, it ill becomes the Government to play into the hands of certain people who want by means of these amendments, which are spoken to both by my Friend, Mr. Muniswami Nayudu, and by a protagonist of the Justice Party, it ill becomes the Government to play into the hands of these strange allies and by a stroke of the legislative pen to alter the policy of the British Government into one of confiscatory and expropriatory legislation. If it is confiscatory legislation to-day of one kind affecting one interest, it would easily lead the way to confiscatory and expropriatory legislation of another kind to-morrow. At this rate, why do you want the Impartible Estates Act, the Court of Wards Act and Acts of that description? Why conserve these zamindari estates as inalienable estates for ever to remain intact? Why not by a stroke of the legislative pen give assent to a repeal of those laws and pave the way for dismemberment of those palayams or zamindaris into small holdings of less than 30 acres each to be held by petty pattadars? You are only leading the way up to that and inviting those who are now disposed to proceed on sound and safe lines quite suitable to your interests, into getting ready to fight the battle royal against you in the near future. I am addressing this to the Raja of Bobbili and his confreres the landholders. I want them to remember this aspect of my observations and to issue the whip in the light of these observations to their followers as to how to vote on this motion. I want also the Government, the Reserved Half, to take stock of the situation in the light of all that I have said and to choose which way they will cast their votes. I think in fairness and justice to all interests concerned, in consistency with their avowed declarations of policy, the Reserved Half are bound to keep aloof from these interested manoeuvres and to give effect to their idea of not tampering with established substantive rights of owners of property.

"The position has been quite clear. Prior to the Act I of 1908, substantive rights in zamindari areas remained as a matter of common law without being statutorily declared. They got declared in so far as zamindari areas are concerned under Act I of 1908 in conformity with the law, the common law. As regards inams, the customary law is essentially different from the law as applicable to zamin areas.

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p.m. "There was a question in each case about the rights and there was no presumption either way. Now without regard to any presumption it is asked that this House should by this amendment sweep away the occupancy rights of such inamdars as may be in a position to establish that they have occupancy rights. It is one thing merely to ask for a law settling the uncertainty as to the onus of proof; it is another thing to say that irrespective of the law as to the onus of proof, we shall not recognize any occupancy rights in inamdars at all and that in all inam estates inamdars must be content merely with ownership of melvaram rights and must be content to let the kudivaram rights being held by others. That is a large order.

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"I submit that enough has been said to demonstrate that, if this amendment were passed into law, the effect would be not to declare rights as they are, not merely to disturb the existing law as to the onus of proof but to destroy the existing rights and to confer rights upon persons and classes who do not now own them. That, as I have repeated more than once, is communistic legislation and I warn those who are at such a purpose to remember that if they make communistic legislation overtake others, it will not be long before it overtakes them also and their own vested and far more valuable zamindari estates."

* Rao Bahadur Sir A. P. PATRO:—"Mr. President, I thought that the House would be very glad to hear the valuable arguments of Sir Alladi Krishnaswami Ayyar, whose contribution to the discussion of the subject would be very valuable indeed. But as you have called on me to speak I will obey and, in doing so, I should like to observe at the outset that I feel it is rather unfortunate for me to have to speak just after the hon. Member for the City of Madura also has sat down. He laid particular emphasis upon every word of his speech that . . ."

Mr. A. RANGANATHA MUDALIYAR:—"Are we to take it, Mr. President that the hon. Member was commanded to speak without his catching your eye?"

Rao Bahadur Sir A. P. PATRO:—"Sir, after the emphasis which the hon. Member for the City of Madura has laid on every word of his speech it is rather difficult for me to decide which part of his speech the hon. Member wants us to consider important and noteworthy and which part unimportant. I know full well that the hon. Member for the City of Madura is a nationalist and as such is above all communistic feelings. Everyone who knows him knows full well that there can be no mistake about his political views in the matter. As a nationalist he is not a communalist; as a nationalist he is not a communist either. But the hon. Member is after all a human being and subject to the frailties of human nature: when questions of self are concerned, he is apt to forget all other human feelings and courtesy to others and other parties. The one great argument that has been running through and through in his speech is a crusade against the Justice Party and the Government who are in alliance with the Justice Party. They are responsible for this Bill according to the hon. Member. I wish, Sir, it were really so. I will only say that these cheap sneers and cheap criticisms of the Justice Party by those who cannot understand the principles of the Justice Party and who will not understand the principles of the Justice Party are due to sheer ignorance, if not, shall I say, due to sheer impertinence. Remember, Sir, that the Justice Party is not the author of this amending Bill. If in 1922 the hon. Mr. K. Srinivasa Ayyangar, that brilliant star of the High Court, Advocate-General, High Court Judge and then Member of the Executive Council—if he was a party to this Bill, surely, Sir, we are guilty along with him. If, later on, Sir, another equally eminent lawyer and equally brilliant gentleman, Sir, C. P. Ramaswami Ayyar—if he accepted the

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principle of the Bill now before us, surely, Sir, we will be delighted to plead guilty along with him. But the hon. Member for Madura ignores facts. He forgets that the Government have on four distinct and definite occasions placed this clause of the Bill before the House and asked that it may be accepted by the country as a whole. But the hon. Member is a wise man. Can you ever doubt him? No. He will not refer to that aspect of the matter at all. But there is one small matter which is a source of trouble to him and that is the explanation to the section 8. If he had read the two together and had not deliberately omitted to mention them, the House would have got an entirely different impression of the case from what it is now. But I will not take him to task for it, because I know well that he is arguing a losing cause and the best way of doing it is, as all lawyers know, if you have no arguments to support your case abuse the opponent's vakil. As a learned advocate of Madura he is an adept at that and he is not untrue to that saying. He said that the hon. Member from Chittoor supported the case. He asked us to remember the coming elections. I thought that there was such a powerful combination of interests such a thorough-going unity in the matter that the poor Member from Chittoor will soon find his position in jeopardy. Instead of admiring the courage, instead of admiring the frankness with which the case has been advocated, the hon. the Nationalist Member from Madura has the audacity to say that it is after all an election cry. Has not the hon. Member to go back to his constituency and meet the very members whose cause he is advocating to-day? I sincerely hope that it is so and that it is for that reason he is making an election cry here.

“ Then the hon. Member indulged in baseless criticism and said that this was a piece of confiscatory legislation, that what we are doing is expropriation and that it is the curse of the Justice Party that when it is in power there is an unholy combination between Sami Venkatachalam Chetti, my Friend Diwan Bahadur Muniswami Nayudu and my Friend, Mr. Patnaik Mahasayo. But I am sure, Sir, in his wiser moments he would not think the same of these hon. Members. The position is this. The hon. Member said that this is a measure of expropriation, a measure which takes away the existing rights of the people, takes away from the haves and gives to the have-nots. It is true, Sir, that this is taking away from the haves and giving to have-nots. But the hon. Member, I am sorry, has come into the field very late. If he had been present in 1907 and 1908 when the Estates Land Bill was on the anvil, surely he should have been a very powerful advocate for the zamindars. At that time the law was so uncertain and you know that 20 Madras Report sounded the first note for the agitation for claiming occupancy rights. Then decisions flowed from that case and there was uncertainty in the matter of High Court decisions in regard to occupancy rights and these were sought to be set right by the Estates Land Bill which was then prepared. If my hon. Friend from Madura had been present then, he would have said that that was

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not merely expropriation but highway robbery. The Estates Land Act of 1908 would have been condemned by the hon. Member for the City of Madura as highway robbery. But my hon. Friend who has got zamindars in his pocket (An hon. Member: Inam cases?)—yes, it is question of inam cases, it is a case analogous to that. The rights of the existing people are to be denied to them in estates where they have vested rights and vested interests. Here is a village in the midst of ryoti villages and according to the two hon. Members representing Madura district (I am sorry for Madura district), I mean the hon. Member Mr. Srinivasa Ayyangar and the hon. Member Mr. K. R. Venkatrama Ayyar, the cultivator is only a contributor of labour and a tiller of the soil and they want to be the tyrants of the poor cultivators and the ryot. I thought, Sir, these were the words which long long ago even in the time of Mr. V. Krishnaswami Ayyar had passed away from the country. If only Mr. Krishnaswami Ayyar were living to-day, he would be the first man to support this measure. When we find the nationalist spirit coming over the country, when we find that there is such a real power vested in the hands of the masses, when we find that there is agitation on the part of the masses for the improvement of the agricultural conditions, it is too late for my hon. Friends to say that the occupier of the land is only a contributor of labour. My Friends must disabuse their minds of the arrogant idea that the occupier of the land is only a contributor of labour and a tiller of the soil. To-morrow you will be his slave and he will be your master. Wait for the day—as you appealed to the zamindars, I appeal to you—when the inamdars will find themselves the slaves of the masses, the slaves of the cultivators when the voting power comes into their hands. Be not so sure of their position and your position and say that the occupier of the land is only the tiller of the soil and the contributor of labour. But in 1907-1908 an analogous position was held by the cultivator and the zamindars denied that he had any occupancy right and that they were only tenants from year to year at their mercy. But what happens to-day? The inamdar says that the occupier of the land is only the tiller of the soil and the contributor of labour and nothing more. Yes, in Madura district—I do not mean the hon. Minister for the time being—treat the occupier of the land who gives them the food they take, who gives them the raiment they wear, who gives them the motor cars they ride and the palatial buildings they live in, the poor cultivator, the poor pariah with no residence, with no food for himself, with no food for his family, is treated like a beast of burden. At the sacrifice of his life-blood, these inamdars have grown rich and fat; they say that the Government should not intervene in this matter. These people are merely contributors of labour. The hon. Member has no real argument to advance; he only appealed to sentiment. The land has been alienated; it has passed into many hands by alienation. They paid money and purchased what they considered to be a full right. You 3 p.m.

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cannot help it when the law changes. The same thing happened when the Estates Land Act was passed. When the occupancy right was given, a number of people purchased estates believing that they will have full right. What was the effect when the Estates Land Act was passed? The zamindars thought they had every right. But the Estates Land Act says they cannot exercise those full rights. What applies to the case of the ryoti land must necessarily apply to inam lands.

"As a matter of fact what happened in my own district? In my own district I have known of administrative difficulties that have been undergone by the ryots. I myself have appeared in such cases. The cultivators of the soil, believing that they had the right, transferred their rights to the mortgagees. The result was they were rejected, and the poor tenants had to go from lawyer to lawyer, from court to court. Ultimately what happened? There is the uncertainty of the law. Before the Privy Council gave their decision, the law was in a manner favourable to the tenants. Then the Privy Council decision came in and it was in favour of the inamdars in the matter of burden of proof. The inamdar has another weapon with which to kill the tiller of the soil or the contributor of labour. This is the position of the tenant. The poor labourer on whose labours the inamdar grows fat, is denied his ordinary and natural right. Therefore I say it is high time that the Council should consider the matter very carefully and see that the inamdar does not hold absolute control over the poor cultivator. The existing provision opens a large door for litigation, ruinous litigation. The tenants had to borrow large sums of money to see that their rights were upheld. Ultimately what happened. When the matter went to the High Court, the inamdar who was a wealthy person, borrowed a much larger sum of money to see that his rights were upheld. The matter went to the Privy Council also. The litigation went on for nine years. Both the tenants and the inamdar were ruined on account of this litigation. The present state is not beneficial either to the ryot or to the inamdar. Such being the stage of things, it is but just and equitable that the Government should intervene in the matter.

"The hon. Member for the Madura City said that this Bill was intended only to rectify administrative difficulties and therefore it was wrong on the part of the Government to take sides. Whom should the Government side? Government's side or the Opposition. The Government would not take sides; they will hold the scales even between the two parties. The Government would protect the rights, the just rights of both the landlords and the tenants.

"I am afraid the memory of the hon. Member from Madura City is very short. I do not attribute to him shortness of memory. He deliberately forgot the point. I will only remind him of what happened the other day. He very eloquently supported the motion that the Bill of his friend should be taken up and considered along with the Government measure. I hope he has not forgotten some of the provisions of that

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Bill. He threw a cheap sneer at the Justice Party. The Justice Party is able to take care of itself. The Raja Sahib of Bobbili said that some of the provisions of the Bill which my hon. Friend representing the Madura City supported eloquently, were of a confiscatory nature. I would like to refresh his mind that he wanted to have a provision to set aside the decision of the High Court. The deliberate intention of the Bill was that the decision of the High Court which was against the tenants, should be set aside, the decision of the High Court regarding old waste.

"Take the case of the coconut topes. We all know the value of coconut topes both in the West Coast and in the East Coast. The decision of the High Court in this matter is there. The hon. Member wanted to destroy the effect of the High Court decision. According to his political dictionary, it is not expropriation or confiscation.

"I would ask the hon. Member to recollect the provision in the non-official Bill with regard to reduction of rent. The decision of the High Court is there and the Bill seeks to set aside that decision. They say 'the High Court may decide one way; but we would have it in a different way.' They want to include these provisions in a Bill brought forward to overcome certain difficulties felt in the working of the existing Act.

"When the hon. Member for Madura has to deal with the cultivating tenants in whole inams he would deny them all their rights. This is the justice, this is the equity over which the hon. Member waxed very eloquent. I am sure hon. Members have perfectly understood the effect of the provision. The hon. Member from Madura has not been able to rebut a single argument of the hon. Member for Chittoor who put forward his view points so ably. I do not want to mar the impression that has been created by hon. Member from Chittoor. I say that the hon. Member from Madura has absolutely no case."

* The hon. Sir ARCHIBALD CAMPBELL:—"Sir, the motion made by the hon. Member from Chittoor practically restores the amendment in the Bill as it was originally brought forward to the Government. But in the discussion that has taken place, hon. Members have anticipated further amendments which will be brought before this House and which would have the effect of putting the ryots in inam villages in the same position as the ryots in zamindaris. The Government have been receiving from time to time certain requests that this should be done and after very careful consideration the Government decided that the time has come when they should accept this proposal. The position is not the same as it was when the Act of 1908 was passed and the Government have come to the conclusion that the law should be altered in this respect. I do not wish to enter upon the legal aspect of the question, as to the extent to which this will cause expropriation of existing rights which have hitherto been recognized. There is no doubt that the change must make a difference in the relations between the inamdars in the inam villages and their tenants. My hon. Friend, the Member from

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Madura City referred to the fact that some of his lands in the possession of his grandfather are tilled now by the grandsons of the man who tilled them in his grandfather's time. It will be open to the inamdar to claim such lands as his private lands. There is an amendment under the definition of 'private land', to the effect that 'private land' includes—

'All land which is proved to have been cultivated as private land by the landholder himself, by his own servants or by hired labour with his own or hired stock, for a continuous period of twelve years immediately before the commencement of this Act.'

"There is also another provision to which I may call attention, at the end of the Bill as amended by the Select Committee, namely, section 128, that—

'Nothing in this Act or in any repeal or amendment effected thereby shall affect any right, title, interest, obligation, or liability already acquired, accrued or incurred before the commencement of the Act under a decree or order of a competent court.'

"There the amendments now proposed will not upset any decision which has been actually passed by a competent court as regards kudivaram rights in an inam village.

"It has been said to me outside the House, Sir, that we should be doing a most unfair thing to inamdars, by passing this legislation in this House, because they are not represented in this House at all. But I may point out that one of the Members of Government, namely, the Chief Minister, is himself an inamdar as he holds as inamdar a number of inam villages. I may also point out, Sir, that the case for inamdars has been very ably put before the House by my hon. Friend from Madura City.

"Sir Parasuram Patro referred to the desire expressed in certain quarters to hear Sir Alladi Krishnaswami Ayyar's views; usually the Advocate-General speaks on behalf of the Government but I recognize that he is personally interested in this matter and I have no wish to deprive the inamdars of his able advocacy of their case; I have therefore, informed him that he is free to speak on their behalf, but the views he puts forward will not be expressed on behalf of the Government, but he will place his views before this House on this question, as an inamdar."

* Diwan Bahadur Sir ALLADI KRISHNASWAMI AYYAR:—"Mr. President, I had at first no idea of interposing in this debate; but in view of my fairly large experience in regard to inams and the litigation connected with these inams, in view also of the varied position I myself hold of being a ryot of a fairly large part of land under the zamindar of Venkatagiri, of myself being an inamdar and of myself being also a proprietor, I felt it was my duty to place my views and exercise my privileges as a Member of this House. Before making my remarks, I may say that I am thankful to the hon. the Revenue Member for giving me the privilege of expressing my views unfettered by my official position.

A BILL FURTHER TO AMEND THE MADRAS ESTATES LAND ACT, 1908, 375
FOR CERTAIN PURPOSES (BILL NO. 12 OF 1931)

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"I should like to deal first with the scope and ambit of the Bill in the words of the hon. the Revenue Member himself. The hon. the Revenue Member in introducing the Bill in this House made it quite clear that the object of this legislation was not to interfere with vested interests of any section, either of the landholder or of the ryot; that the main and the dominant object of this amending legislation was only to adjust the existing relations between the landholder and the ryot in the light of judicial decisions. I believe that is the main line that has been taken up by the landholders and other parties who pressed upon the attention of the House that this is merely an amending legislation and not a consolidating legislation. If I may be permitted to quote the opening words of his speech, he stated:

'It only aims at removing certain difficulties which have been found in the working of the existing Act. It does not aim at conferring any new rights or other powers upon either the zamindar or the ryot. It does not aim at placing any disability upon either party.'

Sir, that is the object of the legislation. Now, the policy underlying the Madras Act I of 1908 was this: If in any particular case, the melvaram alone has been granted to an inamdar who does not want kudivaram, it is to be treated as an estate and the ryots under that inamdar will exactly be in the same position as ryots in permanently settled estates. It is such inams as do not satisfy the terms of that definition in which *ex concessi* it is both the melvaram and the kudivaram that were granted to the inamdar that were outside the purview of the Act. There is no use arguing that inams are of this description or of that description. If in any particular case an inamdar does come within the definition of Madras Act I of 1908, the ryots are entitled to all the rights and privileges under that Act. It is only, if the inamdar does not come under that definition, that he can say that he is entitled both to the melvaram and to the kudivaram and therefore he does not come within the ambit or the restrictive provisions of the Act. Now, therefore, if any difficulty has been felt in regard to the onus of proof and if as a question of high policy, the legislature feels that it ought to place the onus on the landholder and not the ryot, by all means let it do so. It will be up to the Legislature and to the Members of this House to bring appropriate amendments placing the onus upon the inamdar and making it incumbent upon him to prove that both the varams have been granted to him. If he is unable to satisfy the onus, the kudivaram will have all the rights and privileges under the Act. One cannot but notice the zeal that is displayed by zamindars in regard to the ryots under the inamdar. We can always be generous with other people's money and other people's property. The right kind of generosity is the generosity when a man is willing to part with his own right and with his property. I do not commend that generosity of any public-spirited gentleman who is quite willing to make a free gift of other people's rights; but at the same time I do not maintain that as a ground of high State policy under a particular consideration, the Government of a country may not be justified in interfering even with

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existing rights and conceding rights to people who do not for the time being possess those rights. That must be the express point at issue. The whole country must be apprised of that. There must be representations made to the Government to the effect that the existing rights are operating harshly upon a particular class of people and upon grounds of public justice and high policy, the Government of the country ought to interfere with vested rights. I am not for stereotyping vested rights for all time. With the growth of society, it is necessary that there must be adjustments from time to time; but the Government of a country must be satisfied that the adjustment is called for and that must be the express point and not be the subject of amendments as a result of party manœuvres for the time being. That is one point.

“ Then again, reference has been made to the fact that the fate of the inamdar ought not to depend upon the zeal which is to be displayed by the Justice Party, the Democratic Justice Party or the Nationalist Party, for the tenant on the eve of an election. It ought to rest upon the merits of the case. If you feel that in the public interests such a legislation is called for, that there is a great belief in the country that the inamdars are abusing their powers and that there is a standing agitation on the part of the peasant or of these inamdars, by all means alter the law.

“ Then, Mr. President, I should like to take the leave of the House to refer to certain inaccurate statements that have been made. It was stated that from the beginning the idea was to bring inams on a par with estates. That statement is not correct. If the Members of the House will kindly look at the revised Bills of 1922, of 1928 and of 1931, they will find that there was an attempt to make inams estates and at the same time to add a proviso to the effect that if both rights are vested in the inamdar, it shall not be an estate. That was the devise that was adopted. Make the whole estate private land or take it away practically out of the category of estate. In the Committee it was felt that, as a matter of drafting, it was not a proper thing. You cannot in one clause say that it is an estate and in another clause take the whole property out of the category of estates and make it private land. It was considered to be an indefensible method of legislation. Therefore it was pointed out to the Members of the Committee that the proper thing would be to take a particular class of inams out of the category of estate. If Members of the House have patience to go through each one of these draft Bills, they will find that there is a proviso to the definition of an inam which takes an inam in which both the varams are vested practically in the inamdar out of the category of estate. As a drafting device, it was felt not to be the proper method to follow, and therefore the old section was restored. That is so far as the policy of the present Bill is concerned. From the beginning when this amending legislation was undertaken, there was not the least idea to interfere with the inamdars' rights, and the Committee also was of the same opinion. The Government themselves did not think of it and the hon.

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the Revenue Member has accepted the suggestion that there was no great necessity for an amendment of that kind. Under those circumstances, it is only fair that it ought not to be a matter of a party game either on the one side or on the other. That is my submission to the House, so far as that point is concerned.

“ Then, Sir, if you choose to go into the history of legislation in this country almost from the days of the permanent settlement, two kinds of inams were distinctly kept in view. The very first Act dealing with inams—what is called the Inam Title Deeds Act—made it plain. that inam title-deed is not to interfere with the vested rights of any party. If the inam consisted of both the varams, it would continue to do so. If, on the other hand, there was already kudivaram right that was not to be interfered with. But the existence of the two kinds of inam was postulated and recognized by the Inam Title Deeds Act. When you go to the Proprietary Estates Village Service Act and to the Hereditary Village Officers Act, you will find that distinct mention is made of the two kinds of inams. The hon. Member for Chittoor is, if I may say so, not correct in the statement he made that one of the Acts says that every inam shall be presumed to be an inam of melvaram. The Proprietary Estates Village Service Act provides that for the purpose of summary proceeding, an inam shall be presumed to be an inam merely of the melvaram, leaving it to the ryots to litigate in a civil court as to the exact character of the inam.

“ That is all that the section says and after a full investigation of rights under the Madras Estates Land Act with a great supporter for tenant's rights as the hon. Mr. Forbes you find this distinction recognized, the distinction between the two classes of inams. And a gentleman to whose ability my hon. Friend, Sir Patro, has paid a deserved tribute recognized it in adding a proviso to the section, in not making an inam an estate if only both the varams vest in the inamdar; it shall in such a case be deemed to be practically private land. Therefore, the only point is whether any reasons have been assigned for making a great departure in regard to the policy underlying these two enactments. I do not propose to weary the House with the oscillations of the pendulum with regard to the question of burden of proof. The judicial decisions have now arrived at the pre-eminent ground of commonsense. They say that each case must be investigated on its facts and the court will have to come to a conclusion thereon whether it is an inam of one category or another category. My friends grew eloquent about there being litigation. I should like to ask whether in regard to any section which involves the adjudication of rights you can get rid of litigation so long as you have rights by statute and by the common law of the country. Unless you have a simple state of society which was referred to by one of the Members from Chittoor the day before yesterday, courts are inevitable, litigation to some extent is inevitable, and rights will have to be adjudicated upon by courts. The only effort that can be made by the Legislature is to see that rights are defined as

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well as it is possible to do. There is no conflict of judicial decisions. There is no difficulty at present felt. Of course in the investigation of facts there may be some difficulty, and I think we can trust to the ability of both the subordinate judiciary and of the High Court to tackle mixed questions of fact and law, and also questions of fact alone. (A voice: What about the expense?) I do not propose to go into the question of expense.

“Then the only other point is this. Here are lands held by single big proprietors and here are poor tenants. Under those circumstances, is it not right that the poor man's rights should be respected? I for one would be the last to demur to such a course of social policy. But let us examine the case on its merits. A village may be a whole village, but it does not follow that the whole village is held by a single holder; a village is often held by 50 people, 60 people, or 150 people. We have the slogan now repeated by a number of people, ‘Back to the village.’ Politicians make it a theme of the public platforms. In the interests of sound and efficient Government, the Government feel that they have to regulate the recruitment to the services. That may be right. When the man has a few acres of land and wants to go back to his village, take to cultivation partly by himself and partly through others, you say that he would lose his rights. Is it a large question of public policy or revenue administration or is it the way to induce people to get back to villages? That is a point, I think, which the Government of the country may well address themselves to. And especially I would appeal to those gentlemen who wish that the educated people of this country must turn their attention to agriculture. Therefore, as a question of high policy, politicians, statesmen, Ministers, and Members of Council may address themselves to the question whether it is in the interests of sound Government that people who have small properties should turn away from agriculture and henceforward develop themselves into mere farmers of revenue. Whereas people who are said to be farmers of revenue are said to be not taking to agriculture, you want to turn people who are willing to take to agriculture into farmers of revenue. That is a point of social policy which the Government of the country will have to address themselves to.

“Then again, in a few of the villages there is another problem. I know even to-day there is what is called the redistribution system in some of the agharams. After a period of 12 years or 13 years the agharamdars redivide the land. And who is to be treated as an agriculturist? Is it a shifting tenancy that its holder is to have or is it to be a permanent tenancy in any particular land? These are all problems which will have to be considered before a legislation of this type is undertaken. And above all I feel that it ought not to be introduced by way of an amendment under these conditions. The position taken up that the Government were already pledged to it, that that was the scheme of the legislation from 1913 onwards is not correct. Under those

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circumstances I would appeal to the House not to sacrifice the interests of this class or that class for party purposes or as a matter of party manoeuvre."

Diwan Bahadur B. MUNISWAMI NAYUDU:—"Am I to take it, Sir, that he is attributing any motives to the party in regard to what actuates them in this matter?"

Diwan Bahadur Sir ALLADI KRISHNASWAMI AYYAR:—"That is what I have to say."

* Rao Sahib N. SIVA RAJ:—"Mr. President, Sir, I am surprised to find there is even a semblance of opposition to the very harmless motion of my hon. Friend, Mr. Muniswami Nayudu. His motion, according to me, seeks to secure to those persons who are entitled to them the rights which are undoubtedly theirs, and which have been enjoyed by them from time immemorial. And my surprise is all the greater when I find that this opposition comes from those quarters from which I least expected it. I know my Friend, the hon. Member for the City of Madura, and my Friend, the hon. the Advocate-General, are persons who are well versed in the history of the land systems of this country. Not merely that, they are also well versed in the traditional text books on this subject. And may I also say that the first recorded mention of any relationship between the landlord and tenant, or any question relating to land in this country, is found in the laws of Manu. We find in them some mention of the rule that the person who is entitled to occupy land and enjoy the fruits thereof is the one who is responsible for bringing it under cultivation and responsible for getting some produce out of it, and that every other person including the State has no other right in the land except to get a share of the produce of that land. That is the principle which has been accepted by the people in old days. It is found stated categorically in some text books. These principles were merely issued as injunctions to rulers of states. The Hindu rulers were observing these injunctions. The Muhammadan rulers who had their own laws relating to property could have easily suspended all these injunctions and rights of cultivators. But in view of the fact that this custom was obtaining universally in this country, they respected the custom in a way and allowed the cultivator to occupy the land and enjoy the produce thereof. They were merely content to take their revenue from them. When these were the principles observed in this ancient country, how is it that between the State and the actual cultivator so many interests have come to prevail. History records that on account of various causes it was possible for certain persons to confiscate those rights. They were able to get into possession of the lands and came to claim rights which were not theirs. We have heard of instances of how bandit chiefs became farmers of revenue and religious persons got possession of land. So other persons than the cultivators have come upon the scene and began to claim a share of the produce and gradually an interest in the land. It is

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really very unfortunate that in spite of this long history there was no code of rules or law relating to these matters. For the first time in our history an attempt was made to place this matter on a legal basis by the British Government. Not merely that, I think with the object of placing the Revenue administration upon a definite basis, the Britisher started introducing certain Acts and Regulations. And in the course of such Acts and Regulations unfortunately on account of lack of knowledge of the conditions of this country, the British made certain mistakes; and those mistakes are responsible for bringing into existence some rights in the nature of proprietary rights vested in other persons, while the actual cultivators of the soil were merely considered as labourers and tillers of the soil. That is a position which cannot be accepted by those who are conversant with the history of this country or the tenancy legislation of this province. Unfortunately, Sir, according to my reading of history the history of tenancy legislation not only in this province but of other provinces of this country also is a tragedy of defeated intentions which is to be deeply deplored. The Permanent Settlement Regulation of 1802 as every one knows unfortunately made the mistake of recognizing landholders and zamindars as proprietors of the land, which they were not. They were merely revenue farmers, revenue collectors, or assignees of revenue. But, however, in spite of the fact that the British Government have recognized them as proprietors and made them responsible for the collection and payment of revenue for the areas under them, they made provision for the protection of the rights and privileges which were enjoyed by the tenants in those zamindari areas. Properly speaking, in all cases where the proprietary right has been recognized and placed on a legislative basis, there is no reason whatever for the Government except on the ground of public morality to interfere in any relationship between the ryots and the zamindars. We have seen from the year 1802 right up to the present day that the British Government have always felt the necessity and have also seen the justice of bringing forward now and then provisions with a view to secure to the ryots their natural rights and in doing so they were not alert if I may say so in most cases. Legislation was halting and slow owing to the influence of these classes, somewhat one-sided. We find that even as late as 1907 it was not possible in spite of the intentions of the British Government to introduce legislation that would really cover the whole ground and secure to the ryots all the rights to which they are legitimately entitled. Therefore I take it that all those sections relating to the inamdars in the Madras Estates Land Act are rights which may not be fully justified at the present day. The Madras Estates Land Act is notorious for its inconsistency. The hon. Member said that if we pass a measure of that sort, it will be expropriatory. My whole point is that what they have so far confiscated or what they have unlawfully claimed to be theirs is now sought to be divested, and to be vested in these that are really entitled to it.

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"Now, with regard to the point that the intention and policy of the Madras Estates Land Act, was not to confer substantial rights on the people but merely to declare certain rights to be exercised by different classes of people, I may mention this that it was the declared policy of the Madras Estates Land Act to see that the ryots of all classes get occupancy rights. If you read through the provision, and the exceptions under section 6, it will be clear that at some time or other every ryot acquires occupancy rights except in respect of those lands which are called the private lands of the zamindar and lands like the old waste. It is not the object of the amendment to withdraw the rights in such cases. Then, with regard to the question of sacrifice, it is not as if there are not inamdars prepared to yield in this matter. I know of two cases who are themselves inamdars and who get large amount of income, and yet are prepared to support this motion and who actually support this motion. If, like the zamindars, the inamdars also are supporting this motion, it would be the proper thing. I do not know why my Friend, the learned Advocate-General, and others should oppose this. As regards the general observations, made by the Advocate-General as to the justice of this Council interfering in a matter of this kind, it is a pity that the learned Advocate-General in his opening remarks referred to the fact that he was an inamdar. But for this fact, I do not think he could have made this inference."

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Diwan Bahadur Sir ALLADI KRISHNASWAMI AYYAR:—"My friend is mistaken. I said I was a ryot, an inamdar and a zamindar."

Rao Sahib N. SIVA RAJ:—"Certainly he is an inamdar among others. I thought, Sir, while not being able to follow through his argument and learned disquisition as to the way law should be made in respect of this matter. The temptation is irresistible on my part to draw the inference, that when self-interest interferes, it blurs the vision even of such learned men like the learned Advocate-General."

* Mr. T. C. SRINIVASA AYYANGAR:—"An element of unnecessary heat has been introduced in this question so obviously worthy of dispassionate consideration on the circumstances and facts in respect of a class of property which is found all over the Presidency. It is undoubtedly true that Sir George Forbes intended to introduce in the definition of estates these inamdars also. But what was the result? Considering the situation actually existing, it was thought prudent that legislation should not interfere on the lines pointed out. Therefore, a restrictive definition was put in. Twenty-five years have elapsed. All the new Bills intended to widen the definition. But again, in the Select Committee, while discussions proceeded on a principle of give and take and the details were thrashed out, it was found proper to leave the matter where it was and not to enlarge it. Now, after months of interval, when we come to discuss the Bill so carefully considered by the Select Committee very important changes

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are sought to be introduced by bringing in all inamdars, by excluding Lankas, by restricting the extent of holdings and by various other kinds. I ask is it the proper method to do it? Has any report been called for or obtained by the Government from the Collectors of the various districts in respect of these inams which are scattered over the Presidency as to the conditions or circumstances under which these inams were given in pre-British days, or as to the present circumstances, viz., whether the existing holders of whole villages or of shares therein—separated or unseparated—are pursuing the profession of agriculture or whether the tenants in most of them have occupancy rights. Mr. Muniswami Nayudu stated that there is really no distinction between the case of inamdars owning inams in the matter of the incidents of partition, succession, or alienation which tend to distribute, divide and sub-divide and place the inams in the hands of a very large number of persons, and the case of partible zamindari under the Act. He forgets that until the Pithapur case was decided, the prevailing notion was that ancient zamins were governed by the law of primogeniture with the incident of impartiality. Consequently many zamindaris were unpartitioned. Almost all the inams except those given to temples or charitable corporations were always partible and have been divided into tiny fractions. Coming from a district in which very large number of inams exist, one can with certainty say that during the last 60 or 70 years alienations have gone on, so much so, that the inams in the Ramnad district are mostly in the hands of transferees who are Muslims, Chettis, Kammas, Reddis, Paravas and a host of other communities, not to mention a few surviving descendants of the original grantees. In many cases, a number of these are transferee cultivators of the soil. Whether as actual cultivators or while pursuing other avocations, they thought fit to go in for a share in these inam villages. It would really be a hardship to them to introduce this new provision into the Act. Whole inam villages (grants for temples and charitable institutions) in which tenants presumably had occupancy rights and which have all along continued undivided are governed by the Act. A distinction is drawn between major and minor inams; major in the sense of a whole village and minor in the sense that it is not the whole village but a fraction of it. I fail to see any substance in the distinction sought to be drawn. Seven-eighths of a village would be as good or as bad as a whole inam village which may be a very small village. A three-fourth or half a village consisting of waste, arable lands, actually occupied and unoccupied may present the same points of view as a single whole village. One can only understand minor and major inams when grants of specific extent of lands in contrast with a village wholly or a share of it, are made. In all cases of inams, now sought to be brought within the Act, valuable rights have been acquired. It is quite obvious that the inamdar's case is difficult to be heard in this Council, but let my Friends not be interrupting me in the way they do and surely courtesy requires that. (The hon. the President:—‘The

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hon. Member may not yield to interruptions.') When my Friend Mr. Patnaik was putting forward the case of enlarging the definition of estates—from the earnestness which he displayed—I was almost thinking that the case of the inams in the northern parts of this Province must be extremely bad, so much so that the only way of rectifying the same was to bring all the inams under the Act. After hearing Sir Patro, it looks it is one of sentiment only. I expect Mr. Patnaik to make out a better case. What is the state of things to-day? Neither the members of the particular community—the objects of the bounty of the Hindu or Carnatic Rajas in those far-off days—who might not have been actual cultivators of the soil, and who were not following the profession of agriculture or husbandry, nor the members of the communities who were middlemen in the normal sense of the term, who obtained grants in inams in ancient days for services, are holding the inams now.

“ On the other hand, the present holders are transferees and the descendants of transferees and alienees from them. Not only that, divisions of villages among the descendants of the original grantees have taken place in many cases. The Inam Settlement has confirmed them. The process of division and subdivision has gone on. In certain cases, periodical redistributions with reference to good and bad soil have also taken place. The inamdars or sections of them have purchased the tenants' rights in many villages and tenants themselves have gone in for inamdars' rights in certain villages. These are not exceptions but are ordinary. Now to proceed on the assumption that there is a class of landholders who do not till the soil and a body of people who are on the land without occupancy rights liable to be ejected at the sweet will and pleasure of the landholders in the inam villages, is wrong. To bring the case of these inams within the purview of the Act without an investigation of the inams as they are at present, would lead to considerable hardship and create a great deal of confusion. It was urged that as between the inamdar on the one side and the tenants in the inam villages on the other, the inamdar will have to make out that he owns both the varams, and the poor ryot cannot be expected to make out the contrary. If the question rested only with a matter of presumption, it is one thing. But, to introduce the inams into the purview of this Act, it would be not only giving the benefit of a presumption to the tenant but subjecting these inams to various other provisions of the Act, for example, obligation to exchange pattas and muchilkas, giving the inamdars the summary remedies under the Act, etc. Take an inam village which is owned by half a dozen inamdars and the village is divided, in respect of a part of it, by metes and bounds among them, and in respect of the other part, the lands kept for common enjoyment in what is known as marakkal koottu, i.e., enjoyment by the division of the produce. The divided portions of each of the inamdars will have to be dealt with separately from the others in respect of the rights and remedies subsisting between each

4 p.m.

[Mr. T. C. Srinivasa Ayyangar] [2nd November 1933]

of the inamdars and his tenants. Tenants of the village ordinarily hold lands and cultivate them under more than one co-sharer. Is it advantageous to the ryot that he must have a number of landlords in a single village over him with an obligation to deal with them? Many of these inam villages are subject to the payment of jodi to the zamindar, quit-rent to the Government and road-cess to the local bodies. Conditions of inam villages with reference to these incidents vary very much. Taking into consideration the peculiarities of the inams and the course they have taken in various matters, they are not analogous to the case of zamindaris. For these reasons, I oppose the proposed amendment."

* Dr. P. SUBBARAYAN:—"Sir, I deprecate the personal motives that have been attributed by the combatants on either side. If there are amendments to the measure, I feel sure my hon. Friend, Mr. Muniswami Nayudu, and the hon. Gentleman, the Chief Minister, have no motives behind what they have said, because they are doing what they think is right in the light in which they understand the various rights the tenants and the landlords possess. I also deprecate the motive that the hon. Member, Mr. Siva Raj, imputed to the hon. the Advocate-General, because if he spoke here, I do not think he spoke as an inamdar, or as a proprietor, or as a ryot. On the other hand, he was trying to show to the hon. Members of this Council what would be the effect of the amendment if it was carried. There is no doubt whatever that there are some inams in this Province where both the melvaram and the kudivaram do inhere to the proprietor of the inam. To give a case in point, I think there are instances where people originally possessed kudivaram and afterwards were invested with melvaram, and thus they have secured the right both to the melvaram and the kudivaram. The only question is, are we going to deprive these people who have legally secured the melvaram and kudivaram to become subject to this legislation without giving them a chance. As I understand it, the hon. Members of the Council want to throw the burden of proof on the proprietor of inams, because he is after all in a more advantageous position. But, if hon. Members want to proceed with such a measure, I can understand it. There are also cases where when an inam was made the melvaram and kudivaram were invested in the inamdar. In such cases, I feel, Mr. President, that a great hardship would be caused if the right is taken away by a mere stroke of legislation. I therefore appeal to the hon. Members of the House not to go forward with this amendment but to accept the one which is proposed later on by Mr. Patnaik. I am only throwing this out as a suggestion. At the same time, I feel that a great hardship will be inflicted on the people, if this amendment is carried."

Mr. M. A. MUTHIAH CHETTIYAR:—"I move that the question be now put."

The motion was put and declared carried.

2nd November 1933]

A poll was demanded, and the House divided thus:

Ayes.

- | | |
|---|--|
| 1 The hon. Khan Bahadur Sir Mahmomed Usman Sahib Bahadur. | 35 The Raja of Khalikote. |
| 2 „ Diwan Bahadur Sir M. Krishnan Nayar. | 36 The Kumararaja of Venkatagiri. |
| 3 „ Sir Archibald Campbell. | 37 The Zamindar of Mirzapuram. |
| 4 „ Mr. H. G. Stokes. | 38 Mr. M. A. Muthiah Chettiyar. |
| 5 „ Diwan Bahadur S. Kumaraswami Reddiyar. | 39 „ A. V. Bhanoji Rao. |
| 6 „ Mr. P. T. Rajan. | 40 „ Daniel Thomas. |
| 7 „ the Raja of Bobbili. | 41 „ H. M. Jagannatham. |
| 8 Rao Bahadur G. Jagannatha Raju. | 42 Rao Sahib D. Krishnamurti. |
| 9 Mrs. K. Alamelumangathayaramma. | 43 „ P. Subrahmanyam Chetti. |
| 10 Mr. V. N. Viswanatha Rao. | 44 „ C. Jayaram Nayudu. |
| 11 „ J. A. Thorne. | 45 Diwan Bahadur N. Gopalaswami Ayyangar. |
| 12 „ H. M. Hood. | 46 „ A. Appadurai Pillai. |
| 13 „ R. Madanagopal Nayudu. | 47 Rao Sahib D. V. Narasimhaswami. |
| 14 „ E. Conran Smith. | 48 Pandit Ganala Ramamurti. |
| 15 „ T. Sundara Rao Nayudu. | 49 Mr. K. Kesava Ramamurti. |
| 16 Khan Sahib Syed Tajuddin Sahib Bahadur. | 50 „ V. P. Narayanan Nambiyar. |
| 17 Rao Bahadur A. T. Pannirselvam. | 51 Diwan Bahadur B. Muniswami Nayudu. |
| 18 „ R. Srinivasan. | 52 Mr. K. P. Raman Menon. |
| 19 Rao Sahib N. Siva Raj. | 53 „ G. R. Premayya. |
| 20 Subadar-Major S. A. Nanjappa Bahadur. | 54 Diwan Bahadur M. Gopalaswami Mudaliyar. |
| 21 Rao Sahib V. I. Muniswami Pillai. | 55 Mr. R. M. Palat. |
| 22 Mr. M. Vedachala Mudaliyar. | 56 „ C. Indrayya. |
| 23 „ B. P. Sessa Reddi. | 57 „ J. Kuppuswami. |
| 24 „ P. C. Moses. | 58 Mahboob Ali Baig Sahib Bahadur. |
| 25 „ P. V. Rajagopal Pillai. | 59 Mr. P. V. Krishnayya Choudari. |
| 26 „ V. G. Vasudeva Pillai. | 60 „ K. Pattabhiramayya. |
| 27 Khon Bahadur Yahya Ali Sahib Bahadur. | 61 „ M. B. Rangaswami Reddi. |
| 28 Mr. P. Bayappa Reddi. | 62 „ G. Sriramulu. |
| 29 Khan Bahadur T. M. Moidoo Sahib Bahadur. | 63 „ A. Ranganatha Mudaliyar. |
| 30 Mr. P. K. Ramachandra Padayachi. | 64 „ C. R. Parthasarathi Ayyangar. |
| 31 „ G. Lakshmana Reddi. | 65 Rao Bahadur C. Natesa Mudaliyar. |
| 32 Rao Sahib V. Dharmalingam Pillai. | 66 „ Sir A. P. Patro. |
| 33 Rao Bahadur T. M. Narayanaswami Pillai. | 67 Diwan Bahadur S. Ellappa Chettiyar. |
| 34 The Maharaja of Venkatagiri. | 68 Mr. F. Birley. |
| | 69 „ W. O. Wright. |
| | 70 „ P. Madhusoodanan Thangal. |

Noes.

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|--|-------------------------------------|
| 1 Dr. P. Subbarayan. | 8 B. Pocker Sahib Bahadur. |
| 2 Mr. K. R. Venkatarama Ayyar. | 9 Mr. Abdul Hameed Khan. |
| 3 „ T. C. Srinivasa Ayyangar. | 10 „ Basheer Ahmed Sayeed. |
| 4 Khan Bahadur Mahmud Schamnad Sahib Bahadur. | 11 „ P. Peddiraju. |
| 5 Mr. T. S. Ramaswami Ayyar. | 12 Ahmed Meeran Sahib Bahadur. |
| 6 Rao Bahadur P. C. Muthu Chettiyar. | 13 Mr. K. A. Nachiyappa Gounder. |
| 7 Khan Bahadur P. Khalif-ul-lah Sahib Bahadur. | 14 „ A. Pl. N. V. Nadimuthu Pillai. |
| | 15 The Pattagar of Palayakottai. |
| | 16 Mr. U. C. Subrahmanya Bhatt. |
| | 17 „ K. S. Sivasubrahmanya Ayyar. |

Neutral.

- | | |
|--|----------------------------------|
| 1 Diwan Bahadur Sir Alladi Krishnaswami Ayyar. | 3 Mr. Sami Venkatachalam Chetti. |
| 2 Mr. K. M. Duraiswami Reddiyar. | 4 Mr. A. B. Shetti. |
| | 5 „ K. Koti Reddi. |

Ayes 70. *Noes* 17. *Neutral* 5.

The motion was carried.

[2nd November 1933]

4-15 p.m. * The hon. the PRESIDENT:—"The question is—

For the amendment proposed in sub-clause (2), substitute the following:—

'(d) any inam village of which the grant was made, confirmed or recognized by the British Government'."

The amendment was put and declared carried.

A poll was demanded, and the House divided thus:—

Ayes.

- | | |
|---|--|
| 1 The hon. Khan Bahadur Sir Mahmomed Usman Sahib Bahadur. | 36 The Zamindar of Mirzapuram. |
| 2 " Diwan Bahadur Sir M. Krishnan Nayar. | 37 Mr. M. A. Muthiah Chettiyyar. |
| 3 " Sir Archibald Campbell. | 38 " A. V. Bhanaji Rao. |
| 4 " Mr. H. G. Stokes. | 39 " Daniel Thomas. |
| 5 " Diwan Bahadur S. Kumaraswami Reddiyar. | 40 " H. M. Jagannatham. |
| 6 " Mr. P. T. Rajan. | 41 Rao Sahib D. Krishnamurti. |
| 7 " the Raja of Bobbili. | 42 " P. Subrahmanyam Chetti. |
| 8 Rao Bahadur G. Jagannatha Raju. | 43 " C. Jayaram Nayudu. |
| 9 Mrs. K. Alamelumangathayaramma. | 44 Diwan Bahadur A. Appadurai Pillai. |
| 10 Mr. V. N. Viswanatha Rao. | 45 Rao Sahib D. V. Narasimhaswami. |
| 11 " J. A. Thorne. | 46 Pandit Ganala Ramamurti. |
| 12 " H. M. Hood. | 47 Mr. K. Kesava Ramamurti. |
| 13 " R. Madanagopal Nayudu. | 48 " Sami Venkatachalam Chetti. |
| 14 Diwan Bahadur N. Gopalaswami Ayyangar. | 49 " V. P. Narayanan Nambiyar. |
| 15 Mr. E. Conran Smith. | 50 Diwan Bahadur B. Muniswami Nayudu. |
| 16 " T. Sundara Rao Nayudu. | 51 Mr. K. P. Raman Menon. |
| 17 Khan Sahib Syed Tajuddin Sahib Bahadur. | 52 " G. R. Premayya. |
| 18 Rao Bahadur A. T. Pannirselvam. | 53 Siriman M. G. Patnaik Mahasayo. |
| 19 " R. Srinivasan. | 54 Diwan Bahadur M. Gopalaswami Mudaliyar. |
| 20 Rao Sahib N. Siva Raj. | 55 Mr. R. M. Palat. |
| 21 Subadar-Major S. A. Nanjappa Bahadur. | 56 " C. Indrayya. |
| 22 Rao Sahib V. I. Muniswami Pillai. | 57 " J. Kuppuswami. |
| 23 Mr. M. Vedachala Mudaliyar. | 58 Mahboob Ali Baig Sahib Bahadur. |
| 24 " B. P. Sesha Reddi. | 59 Mr. P. V. Krishnayya Choudari. |
| 25 " P. C. Moses. | 60 " K. Pattabhiramayya. |
| 26 " P. V. Rajagopal Pillai. | 61 " M. B. Rangaswami Reddi. |
| 27 " V. G. Vasudeva Pillai. | 62 " G. Sriramulu. |
| 28 Khan Bahadur Yahya Ali Sahib Bahadur. | 63 " P. Bayappa Reddi. |
| 29 " T. M. Moidoo Sahib Bahadur. | 64 Mr. A. Ranganatha Mudaliyar. |
| 30 Mr. P. K. Ramachandra Padayachi. | 65 The Maharaja of Venkatagiri. |
| 31 " G. Lakshmana Reddi. | 66 Rao Bahadur C. Natesa Mudaliyar. |
| 32 Rao Sahib V. Dharmalingam Pillai. | 67 " Sir A. P. Patro. |
| 33 Rao Bahadur T. M. Narayanaswami Pillai. | 68 Mr. K. Koti Reddi. |
| 34 The Raja of Khallikote. | 69 Diwan Bahadur S. Ellappa Chettiyyar. |
| 35 The Kumararaja of Venkatagiri. | 70 Mr. C. Basu Dev. |
| | 71 " C. R. Parthasarathi Ayyangar. |
| | 72 " F. Birley. |
| | 73 " W. O. Wright. |
| | 74 " P. Madhusoodanan Thangal. |

Noes.

- | | |
|--|---|
| 1 Diwan Bahadur Sir Alladi Krishnaswami Ayyar. | 4 Mr. T. C. Srinivasa Ayyangar. |
| 2 Dr. P. Subbarayan. | 5 Khan Bahadur Mahmud Schamnad Sahib Bahadur. |
| 3 Mr. K. R. Venkatarama Ayyar. | 6 Mr. T. S. Ramaswami Ayyar. |

2nd November 1933]

Noes—cont.

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|---|-------------------------------------|
| 7 Rao Bahadur P. C. Muthu Chetti-
yar. | 12 Mr. Basheer Ahmed Sayeed. |
| 8 Khan Bahadur P. Khalif-ul-lah
Sahib. | 13 Ahmed Meeran Sahib Bahadur. |
| 9 B. Pocker Sahib Bahadur. | 14 Mr. K. A. Nachiyappa Gounder. |
| 10 Mr. A. B. Shetty. | 15 „ A. Pl. N. V. Nadimuthu Pillai. |
| 11 „ Abdul Hameed Khan. | 16 The Pattagar of Palayakottai. |
| | 17 Mr. U. C. Subrahmanya Bhatt. |
| | 18 „ K. S. Sivasubrahmanya Ayyar. |

Neutral.

- 1 Mr. K. M. Duraiswami Reddiyar. 2 Mr. P. Peddiraju.

Ayes 74. Noes 18. Neutral 2.

The amendment was carried.

4.15
p.m.

Clause 2 (2) (d).

Section 3 (2) (d).

* The hon. Sir ARCHIBALD CAMPBELL:—" Sir, I beg to move—

'After the words "British Government" at the end, insert the words "and notwithstanding that subsequent to the grant, the village has been partitioned among the grantees or the successors-in-title of the grantee or grantees".'

"Sir, I am not quite convinced that this amendment is really necessary. 'Village' is defined in the Act as a local area which is designated as a village in the revenue accounts; it follows that anything which the owners may do would not really affect the status of the village as a village. It is only the Government which can alter the status of any particular area. But there is a feeling that if the grantees or the successors-in-title of the grantees subdivide the property in their possession, it may have some effect upon the status of the village as an estate. For that reason I have suggested this amendment. It is really a case of abundant caution."

The hon. Diwan Bahadur Sir M. KRISHNAN NAYAR:—" I second it."

The hon. the PRESIDENT:—" May I know from the Revenue Member whether he requires the word 'and' before 'notwithstanding' in his amendment? "

The hon. Sir ARCHIBALD CAMPBELL:—" It may be omitted, Sir."

The amendment, with the word 'and' at the beginning left out, was put and carried.

Section 3 (3).

Sriman M. G. PATNAIK Mahasayo:—" Sir, I rise to move amendment No. 11, viz. . . . "

* The hon. Sir ARCHIBALD CAMPBELL:—" May I raise a point of order as to whether this amendment is in order? We have not touched the definition of 'holding.' "

[2nd November 1933]

* The hon. the PRESIDENT:—" But the original Bill had this definition in it, though it has been subsequently altered by the Select Committee. The amendment is in order."

* Sriman M. G. PATNAIK Mahasayo:—" Sir, I now move the following amendment standing in my name:—

' Insert the following in the place of clause 3 of section 3:—

" ' Holding ' means a parcel or parcels of land held under a single patta or engagement in a single village.

Provided that no land shall be deemed to be held under a single patta or engagement unless there has been an exchange of patta and muchilka in respect of the land at any time between the landholder and the ryot "

" This proviso seems to be necessary for this reason. What generally happens in regard to certain lands which are treated as common lands of the village is that each ryot occupies a portion of them, but a muchilka is not exchanged between the landholder and the ryots cultivating them. At the same time, the landholder, just to realize the rents, tries to proceed against all the persons jointly and severally though each man occupies only a small bit of a common land. When he gets a decree, he tries to realize the whole rent from the person who could pay the whole rent and not from the persons from whom rents are really due. He looks for his own convenience and does not care whether he recovers the rent from the proper person. It is to avoid this difficulty of the tenants that I have moved this amendment. In cases where no agreement has at any time been made or patta exchanged in respect of it, the sort of common ground I have mentioned, should not be treated as the whole plot. But if there has been exchange of patta at any time, fresh exchange of pattas would not be necessary. Now, for the institution of suits in respect of these lands, there should be exchange of pattas. Even in the absence of such exchange of pattas, the zamindars assert that holdings are held under pattas and several people are clubbed together for the recovery of rent, although they have no relation inter-se in the enjoyment of the land. To avoid that thing I have suggested the addition of this proviso."

Mr. P. V. KRISHNAYYA CHoudari:—" I second the amendment."

* The hon. Sir ARCHIBALD CAMPBELL:—" Sir, I am not quite sure if the hon. Member altogether realizes the effect of this amendment. At present ' holding ' means a parcel or parcels of land held under a single patta or engagement in a single village. There is no necessity for the exchange of patta and muchilka before it becomes a holding. Under the hon. Mover's proposal, until there has been this exchange of patta and muchilka, the ryots will not benefit by the provisions of this Act. I must therefore oppose it."

* Mr. K. R. VENKATARAMA AYYAR:—" Sir, I also oppose this amendment for the reason already stated by the hon. the Revenue Member.

2nd November 1933] [Mr. K. R. Venkatarama Ayyar]

I do not think that Mr. Patnaik really intends the consequences which are inevitable if the amendment is carried. I do not think he wants to secure the consequences that the ryots would be put to, viz., that in cases which are not covered by an exchange of patta and muchilka, they would really be losing the various rights conferred upon them by the Act in respect of their holding. In the circumstances the difficulty which Mr. Patnaik has mentioned in moving this amendment as a difficulty may be remedied in some other manner, by some other substantive provision suitably introduced and not by an amendment of the definition of 'holding' which would have the effect of cutting off a good portion of the beneficial operation of the Act in favour of the ryots."

Sriman M. G. PATNAIK Mahasayo:—"The hon. the Revenue Member said that the ryot will be liable to ejectment. I regret to say that the legal position is not correct. What I say is that the ryot will be paying rent in respect of a small piece of land. The zamindar, when he fails to recover rent from other people who are also in possession of plots of the same land, sues all people including those who have paid the rent due by them severally and jointly and tries to recover the rent on lands which were formerly held under joint pattas. That is what I condemn. Of course, if there has been an engagement, the position will be different. But that engagement must be a real engagement and not one simply in the books of the zamindar. If that is there, let the zamindar sue and not otherwise. That is what I mean. Under section 45, if a man pays rent for two years, he secures occupancy rights so far as his particular piece of land is concerned. He pays rent and he cannot be ejected. There is no difficulty about that. The only difficulty is in respect of rent for which a man not in possession is sued jointly and severally with others when in fact it is not due from him. The zamindars, instead of taking the trouble to find out, which of the ryots are in possession of land and have not paid their rent, club them together and make a joint and several claim against all the ryots for the entire amount and recover the whole thing from one of them.

"That is apparently unjust. Therefore that injustice should not be allowed. If once there was an engagement, it must be a real engagement. In that case the ryot must be responsible for the entire extent." 4-30 p.m.

The amendment was put and declared lost.

Mr. M. G. Patnaik demanded a poll and the House divided thus:—

Ayes.

- | | |
|----------------------------------|-----------------------------------|
| 1 Mr. P. V. Krishnayya Choudari. | 3 Mr. J. Kuppuswami Choudari. |
| 2 Sriman M. G. Patnaik Mahasayo. | 4 Mahboob Ali Baig Sahib Bahadur. |

Noes.

- | | |
|---|--|
| 1 The hon. Khan Bahadur Sir Mahmud Usman Sahib Bahadur. | 3 The hon. Sir Archibald Campbell. |
| 2 " Diwan Bahadur Sir M. Krishnan Nayar. | 4 " Mr. H. G. Stokes. |
| | 5 " Diwan Bahadur S. Kumaraswami Reddiyar. |
| | 6 " Mr. P. T. Rajan. |

[2nd November 1933]

Noes—cont.

- | | |
|---|--|
| 7 The hon. the Raja of Bobbili. | 35 The Zamindar of Mirzapuram. |
| 8 Rao Bahadur G. Jagannatha Raju. | 36 Mr. M. A. Muthiah Chettiyar. |
| 9 Mrs. K. Alamelumangathayaramma. | 37 Sri A. V. Bhanoji Rao. |
| 10 Diwan Bahadur Sir Alladi Krishnaswami Ayyar. | 38 Mr. Daniel Thomas. |
| 11 Rao Bahadur V. N. Viswanatha Rao. | 39 " H. M. Jagannatham. |
| 12 Mr. J. A. Thorne. | 40 Rao Bahadur D. Krishnamurti. |
| 13 Diwan Bahadur N. Gopalaswami Ayyangar. | 41 Rao Sahib P. Subrahmanya Chetti. |
| 14 Mr. R. Madanagopal Nayudu. | 42 Diwan Bahadur A. Appadurai Pillai. |
| 15 " E. C. Smith. | 43 Rao Sahib D. V. Narasimhaswami. |
| 16 " T. Sundara Rao Nayudu. | 44 Pandit Ganala Ramamurti. |
| 17 " Khan Sahib Syed Tajuddin. | 45 Mr. K. Kesavaramamurti Nayudu. |
| 18 Rao Bahadur A. T. Pannirselvam. | 46 " S. M. K. Beyabani. |
| 19 Rao Sahib N. Siva Raj. | 47 " A. Ramakrishna Reddi. |
| 20 Subadar-Major S. A. Nanjappa. | 48 " K. R. Venkatarama Ayyar. |
| 21 Rao Bahadur R. Srinivasan. | 49 Rao Bahadur T. A. Ramalingam Chettiyar. |
| 22 Rao Sahib V. I. Muniswami Pillai. | 50 Mr. T. C. Srinivasa Ayyangar. |
| 23 Mr. M. Vedachala Mudaliyar. | 51 Khan Bahadur Mahmud Schamnad Sahib Bahadur. |
| 24 " B. P. Sessa Reddi. | 52 Mr. T. S. Ramaswami Ayyar. |
| 25 " G. Srinamulu. | 53 " V. T. Arasu. |
| 26 " P. C. Moses. | 54 Rao Bahadur P. C. Muthu Chettiyar. |
| 27 " P. V. Rajagopala Pillai. | 55 Mr. U. C. Subrahmanya Bhatt. |
| 28 " V. G. Vasudeva Pillai. | 56 Diwan Bahadur M. Gopalaswami Mudaliyar. |
| 29 Khan Bahadur Yahya Ali Sahib Bahadur. | 57 Rao Bahadur Sir A. P. Patro, Kt. |
| 30 Mr. P. Bayappa Reddi. | 58 " C. Natesa Mudaliyar. |
| 31 " P. K. Ramachandra Padayachi. | 59 The Maharaja of Venkatagiri. |
| 32 Rao Sahib V. Dharmalingam Pillai. | 60 Mr. M. B. Rangaswami Reddi. |
| 33 The Kumararaja of Venkatagiri. | 61 Mr. H. M. Hood. |
| 34 The Raja of Khallikote. | |

Ayes 4.

Noes 61.

The amendment was lost.

* Mr. V. T. ARASU:—"Sir, I move that the proviso to sub-clause 3 of section 3 of the Act be omitted.

"Sir, the proviso reads as follows:—Provided that if the landholder and ryot so agree in writing any portion of a holding as above defined shall be treated as a separate holding.

"In moving this amendment I must say that there is no principle involved and further from the point of view of drafting also I should like to suggest to Government that nothing would be lost if this proviso is dropped for the effect would remain the same. Similar amendments were also moved on the floor of this House at the time when this Bill was taken up for discussion in 1908. The hon. Mr. Krishnaswami Ayyar in moving his amendment made the following speech:—

"There is nothing to prevent a person who holds ten acres from having two or three pattas, if the landholder and the tenant agree. It seems to be carrying things to a nicety when this proviso is put in, for without it, there would be no legal difficulty whatever."

"Then he goes on to say:—

"My point is that we do not want oral understandings between the landholder and the tenant for any portion of the holding being held separate; it is far better to have a record of such understandings in the patta that it is one holding,

**A BILL FURTHER TO AMEND THE MADRAS ESTATES LAND ACT, 1908, 391
FOR CERTAIN PURPOSES (BILL NO. 12 OF 1931)**

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so that the landholder and the tenant may perfectly understand that this is a part of the original holding, though it may be a separate part. The fact that it is separate will be evidenced by a separate patta.'

"Therefore I feel that nothing would be lost by Government dropping this proviso."

Mr. P. V. KRISHNAYYA CHOUDARI:—"I second it."

The hon. Sir ARCHIBALD CAMPBELL:—"Mr. President, Sir, I do not think this amendment is necessary. This proviso has been in force since the Act was passed, and the hon. Member who moved this amendment has not shown that it has led to any difficulties, and there is no reason why it should not remain. It makes it perfectly clear that a holding may be sub-divided into separate holdings and if a person wishes to relinquish a portion of his holding he can do so without having to relinquish the whole holding and get a fresh one. I think the proviso should remain as it is."

The amendment was by leave withdrawn.

* The hon. the PRESIDENT:—"Amendments Nos. a 12-A to 12-D and 13 are outside the scope of this Bill."

* Mr. V. T. ARASU:—"May I make one submission, Sir. According to the legislative procedure I believe it is within the ambit of our right to move amendments to section 3 of the Act which has been touched upon by me; I believe it will be perfectly right on our part to suggest amendments to the sub-clause as well."

a Section 3 (4).

New sub-clause (2) (a).

Mr. V. T. ARASU:—

12-A In clause (4) of section 3 of the Act, the following words after the words 'the value of the holding' be deleted:—
"which is suitable to the holding and consistent with the character thereof, and."

New sub-clause (2) (b).

Mr. V. T. ARASU:—

12-B In sub-clause (d) of clause 4 of section 3 of the Act, delete the word 'dwelling.'

New sub-clause (2) (c).

Mr. V. T. ARASU:—

12-C After sub-clause (f) of clause 4 of section 3 of the Act, add the following new sub-clause and number the same as (g):—
"Manures used on the land to the extent to which their value has not been exhausted."

New sub-clause (2) (d).

Mr. V. T. ARASU:—

12-D In the last paragraph of clause 4 of section 3 of the Act, between the words 'other land of' and 'the landholder' add the following words:—

"or any irrigation work or source thereof belonging to."

Mr. ABDUL HAMMED KHAN,—

Mr. SAMI VENKATACHALAM CHETTI:—

13 Delete clauses (d), (e) and (f) of section 3 (4) of the Act.

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* The hon. the PRESIDENT:—"That is not possible."

* Diwan Bahadur B. MUNISWAMI NAYUDU:—"I beg to move that—
'For the words "*subsequent to the thirteenth day of July 1802*,"
insert the words and figures "*subsequent to the first day of July 1932*."'

"Sir, this clause was contained in the original Bill and was modified in the Select Committee. The object of this clause as introduced by Government is to undo the effect of certain decisions of the High Court. This relates to darmila inams, minor inams granted subsequent to the permanent settlement. The question arose as to whether people who are cultivating these lands should have occupancy rights in them. It was contended that they were not entitled to occupancy rights. But the High Court in their decision and by subsequent rulings held that though these minor inams did not come under the definition of estate yet the inamdar was a landholder under section 3 of clause 5 and therefore the tenants have the right of occupancy. The Government in their Statement of Objects and Reasons say that the Legislature did not intend to give occupancy rights in minor inams. I do not see any basis for such a view. I think it is but reasonable that the change proposed should apply to grants made hereafter and not to grants already made, so that the rights already acquired might remain intact. In view of the fact that these minor inams may well be secured for the benefit of inamdars to whom they are given so that they may cultivate themselves, I do not move the further amendments. My amendment wants that the date 13th day of July 1802 be changed into 1st of July 1932, so that by giving effect to it those who have already acquired rights might not be affected. So I move this amendment."

(The hon. the Revenue Member was consulting the Advocate-General.)

4-45
p.m.

* The hon. the PRESIDENT:—"If the Government wants to have the discussion on this particular amendment adjourned, we can have it to-morrow."

* The hon. Sir ARCHIBALD CAMPBELL:—"The Advocate-General is just going to explain the scope of the amendment to the House."

* Diwan Bahadur Sir ALLADI KRISHNASWAMI AYYAR:—"Sir, I shall just explain the scope of this explanation. The main principle underlying this explanation is that subsequent to the permanent settlement, there might have been cases of grants of small bits of land here and there, grants of a few acres but not whole villages which might have been unoccupied at that time and there was no idea of differentiating the varams—the melvaram and the kudivaram. The idea is that the rights of these people should be protected. But if you put in the year 1932 here a different consequence would be the result. You may prevent landholders from carving out inams after 1932. But to say that grantees after 1932 ought to be protected would defeat the very object of the explanation, namely, to protect grants made after 1802, but before

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the Madras Estates Land Act of 1908. But if you say here 'grantees of inams subsequent to 1932,' it would mean that people can prevent the acquisition of occupancy rights after 1932 by carving out inams (in the name of their relations?) which is certainly not the object of any one. The object is to protect antecedent grants, grants made prior to the passing of the Madras Act I of 1908. You may take any date as the final point, but the starting point must be earlier. It must be subsequent to 1802. It must be darmila inam. There should have been no differentiation of varams and the landholder must have made a complete grant of a few acres. The land must have been unoccupied and it must have been intended for cultivation by the inamdar. That is the object of this explanation. But if you alter the explanation as follows—

'The grantees in inam subsequent to the first day of July 1932, of land which formed part of a village in an estate and which was either unoccupied or in which there was no occupancy right on the date of the grant, shall not be deemed to be a ryot, etc., etc.'

it will produce just the opposite effect to what is intended. That is to say, after 1932, landholders may go on making grants of inams to their own relations and prevent the acquisition of occupancy rights, provided that land is unoccupied on the date. I do not believe that it is the intention of my hon. Friend. Therefore, if you are agreeable to the main principle of the Explanation, you will have to protect grants made subsequent to 1802. You must always fix a date beyond which such grants could not be made in order to prevent the acquisition of occupancy rights, but to substitute 1932 for 1802 would produce just the opposite effect. That is what I want to point out. I do not want to speak on the merits of the amendment, but I wish only to say that that is the effect of the Explanation. The House will have to go into the cardinal question whether or not they are agreeable to recognizing a complete title in grantees of portions of an estate subsequent to 1802 and if necessary prior to 1932."

The hon. Sir ARCHIBALD CAMPBELL:—"Mr. President, I accept your suggestion that further discussion on this amendment might be postponed to to-morrow."

* The hon. the PRESIDENT:—"The House will now adjourn and meet again at 11 a.m. to-morrow."

R. V. KRISHNA AYYAR,
Secretary to the Legislative Council.